# FISCAL YEAR 2012 MONITORING REPORT ON THE NEBRASKA VOCATIONAL REHABILITATION PROGRAM



U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION

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# **SECTION 1: EXECUTIVE SUMMARY**

# **Background**

Section 107 of the Rehabilitation Act of 1973, as amended (Rehabilitation Act), requires the Commissioner of the Rehabilitation Services Administration (RSA) to conduct annual reviews and periodic on-site monitoring of programs authorized under Title I of the Rehabilitation Act to determine whether a state vocational rehabilitation (VR) agency is complying substantially with the provisions of its State Plan under Section 101 of the Rehabilitation Act and with the evaluation standards and performance indicators established under Section 106. In addition, the commissioner must assess the degree to which VR agencies are complying with the assurances made in the State Plan Supplement for Supported Employment (SE) Services under Title VI, part B, of the Rehabilitation Act.

Through its monitoring of the VR and SE programs administered by the Nebraska Vocational Rehabilitation (NVR) in federal fiscal year (FY) 2012, RSA:

- reviewed the VR agency's progress toward implementing recommendations and resolving findings identified during the prior monitoring cycle (FY 2007 through FY 2010);
- reviewed the VR agency's performance in assisting eligible individuals with disabilities to achieve high-quality employment outcomes;
- recommended strategies to improve performance and required corrective actions in response to compliance findings related to three focus areas, including:
  - o organizational structure requirements of the designated state agency (DSA) and the designated state unit (DSU);
  - o transition services and employment outcomes for youth with disabilities; and
  - o the fiscal integrity of the VR program;
- identified emerging practices related to the three focus areas and other aspects of the VR agency's operations; and
- provided technical assistance to the VR agency to enable it to enhance its performance and to resolve findings of noncompliance.

The nature and scope of this review and the process by which RSA carried out its monitoring activities, including the conduct of an on-site visit from March 19, 2012 through March 23, 2012, is described in detail in the FY 2012 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program or a PDF version.

# **Emerging Practices**

Through the course of its review, RSA collaborated with NVR, the State Rehabilitation Council (SRC), the Technical Assistance and Continuing Education (TACE) center, and other

stakeholders, to identify the emerging practices below implemented by the agency to improve the performance and administration of the VR program.

- **Certificate Program:** The Certificate Program is based on a three-way partnership model to facilitate NVR consumers acquiring specific vocational skills within a community college that are specifically targeted to the needs of local employers.
- Youth Rehabilitation and Treatment Centers (YRTC): The YRTC Transition Liaison Program is an initiative to assist youth who have been discharged from the juvenile correctional facilities in Nebraska to successfully transition to educational and vocational programs.
- Autism Supported Employment Program: NVR partners with Autism Center of Nebraska (ACN) *Connections* in matching the right people with the right jobs for individuals diagnosed with Autism Spectrum Disorder (ASD).
- **Tablets:** NVR staff use electronic tablets to increase productivity and efficiency in carrying out many aspects of their daily casework and administrative responsibilities.
- **Team Structure:** NVR provides VR services through a team structure in each of the field offices.

A more complete description of these practices can be found in Section 3 of this report.

# **Summary of Observations**

RSA's review of NVR resulted in the observations related to the focus areas identified below. The entire observations and the recommendations made by RSA that the agency can undertake to improve its performance are contained in Section 5 of this report.

- NVR Service Delivery to Transition Population: In restructuring its service delivery to transition-age youth, NVR needs to take into account such planning factors as: building on its transition to independence model with transition-age youth as VR consumers; educating and training the SEA and local school districts regarding appropriate transition referrals to NVR; managing the transition caseloads within its team structure; and utilizing the transition IPE workbook.
- **NVR Monitoring of Grant-Supported Activities:** NVR's monitoring processes for grant-supported activities are not formalized into policies and procedures in such a manner that ensures uniform application of monitoring, promotes training for new staff, or supports succession planning activities.
- ATP Contract: NVR has entered into a memorandum of understanding (MOU) with the Assistive Technology Program (ATP) to provide AT services to VR consumers. The MOU does not include the identification of the AT services to be provided, the service delivery process, or roles and responsibilities of the ATP and VR staff. Further discussions with NVR staff identified additional information and policies that support the MOU, which are not included as part of the MOU document, including an ATP/VR Partnership policy in the NVR Program Manual, and the original proposal for the partnership from FY 1997.

# **Summary of Compliance Findings**

RSA's review resulted in the identification of compliance findings in the focus areas specified below. The complete findings and the corrective actions that NVR must undertake to bring itself into compliance with pertinent legal requirements are contained in Section 6 of this report.

- NVR provides VR services to transition-age youth who are not applicants for, or who have not been determined eligible to receive, these services. Specifically, NVR does not:
  - a. initiate the VR service delivery process for transition-age youth through the acceptance of an application;
  - b. determine whether an individual is eligible to receive services within 60 days from the date an application for VR services is made by transition-age youth;
  - c. develop an IPE for transition-age youth prior to providing VR service.
- NVR has not established written policies regarding the development and approval of IPEs for transition-age youth found eligible for the VR program prior to their exit from the school setting.
- NVR's agreement with the State Education Agency (SEA) does not include the minimum requirements of a formal interagency agreement.
- NVR utilized non-federal indirect costs allocable to the IL Part B program as match for the VR program.
- NVR does not monitor its supported employment (SE) contracts in a manner that ensures expenditures made under the contracts are consistent with federal requirements.
- NVR did not accurately report financial data on FY 2010 and 2011 SF-425 federal financial reports.
- NVR has not ensured that employees working on multiple cost objectives allocate costs in proportion to the benefitting programs.
- NVR has not disbursed available program income prior to drawing down additional federal funds.

# **Development of the Technical Assistance Plan**

RSA will collaborate closely with NVR and Region VII TACE to develop a plan to address the technical assistance needs identified by NVR in Appendix A of this report. RSA, NVR, and Region VII TACE will conduct a teleconference within 60 calendar days following the publication of this report to discuss the details of the technical assistance needs, identify and assign specific responsibilities for implementing technical assistance and establish initial timeframes for the provision of the assistance. RSA, NVR, and Region VII TACE will participate in teleconferences at least semi-annually to gauge progress and revise the plan as necessary.

# **Review Team Participants**

Members of the RSA review team included Sue Rankin-White (State Monitoring Program Improvement Director), David Jones (VR Unit), Craig McManus (Fiscal Unit), Christyne Cavataio (VR Unit), Charles Sadler (TA Unit), Julya Doyle (Data Collection and Analysis Unit), and Timothy Beatty (IL Unit). Although not all team members participated in the on-site visit, each contributed to the gathering and analysis of information, along with the development of this report.

# **Acknowledgements**

RSA wishes to express appreciation to the representatives of NVR for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the Nebraska Department of Education, the SRC, the Client Assistance Program and advocates, and other stakeholders in the monitoring process.

# **SECTION 2: PERFORMANCE ANALYSIS**

This analysis is based on a review of the programmatic and fiscal data contained in Tables 2.1 and 2.2 below and is intended to serve as a broad overview of the VR program administered by NVR. It should not be construed as a definitive or exhaustive review of all available agency VR program data. As such, the analysis does not necessarily capture all possible programmatic or fiscal trends. In addition, the data in Table 2.1 measure performance based on individuals who exited the VR program during federal fiscal years 2006 through 2010. Consequently, the table and accompanying analysis do not provide information derived from NVR open service records including that related to current applicants, individuals who have been determined eligible and those who are receiving services. NVR may wish to conduct its own analysis, incorporating internal open caseload data, to substantiate or confirm any trends identified in the analysis.

# **Performance Analysis**

### **VR Program Analysis**

Table 2.1 NVR Program Performance Data for Federal FY 2006 through Federal FY 2010

NVK Program Perior	mance D	<u> </u>	cuciai	1 2000	uniougi	Treacta	11 1 201	U
	Number, Percent, or						Change from 2006 to	Agency Type
All Individual Cases Closed	Average	2006	2007	2008	2009	2010	2010	2010
TOTAL CASES CLOSED	Number	4,082	4,236	4,065	4,449	4,950	868	317,162
	Percent	100.0%	100.0%	100.0%	100.0%	100.0%	21.3%	100.0%
Exited as an applicant	Number	432	451	434	483	586	154	49,928
	Percent	10.6%	10.6%	10.7%	10.9%	11.8%	35.6%	15.7%
Exited during or after trial work								
experience/extended evaluation	Number	0	0	0	0	0	0	2,738
	Percent	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.9%
TOTAL NOT DETERMINED ELIGIBLE	Number	432	451	434	483	586	154	52,666
	Percent	10.6%	10.6%	10.7%	10.9%	11.8%	35.6%	16.6%
Exited without employment after IPE, before services	Number	11	8	9	17	48	37	4,268
	Percent	0.3%	0.2%	0.2%	0.4%	1.0%	336.4%	1.3%
Exited from order of selection waiting list	Number	2	2	4	2	11	9	6,587
	Percent	0.0%	0.0%	0.1%	0.0%	0.2%	450.0%	2.1%
Exited without employment after eligibility, before IPE	Number	1,250	1,314	1,166	1,370	1,550	300	88,031
	Percent	30.6%	31.0%	28.7%	30.8%	31.3%	24.0%	27.8%
TOTAL EXITED AFTER ELIGIBILITY, BUT PRIOR TO RECEIVING SERVICES	Number	1,263	1,324	1,179	1,389	1,609	346	98,886
	Percent	30.9%	31.3%	29.0%	31.2%	32.5%	27.4%	31.2%

All Individual Cases Closed	Number, Percent, or	2006	2007	2008	2009	2010	Change from 2006 to 2010	Agency Type 2010
	Average							
Exited with employment	Number	1,498	1,530	1,543	1,568	1,677	179	87,039
	Percent	36.7%	36.1%	38.0%	35.2%	33.9%	11.9%	27.4%
Exited without employment	Number	889	931	909	1,009	1,078	189	78,571
	Percent	21.8%	22.0%	22.4%	22.7%	21.8%	21.3%	24.8%
TOTAL RECEIVED SERVICES	Number	2,387	2,461	2,452	2,577	2,755	368	165,610
	Percent	58.5%	58.1%	60.3%	57.9%	55.7%	15.4%	52.2%
EMPLOYMENT RATE	Percent	62.76%	62.17%	62.93%	60.85%	60.87%	-3.00%	52.56%
Transition age youth	Number	1,280	1,403	1,346	1,515	1,739	459	107,377
-	Percent	31.4%	33.1%	33.1%	34.1%	35.1%	35.9%	33.9%
Transition age youth employment outcomes	Number	537	538	549	563	582	45	27,618
	Percent	35.8%	35.2%	35.6%	35.9%	34.7%	8.4%	31.7%
Competitive employment outcomes	Number	1,495	1,517	1,370	1,564	1,670	175	85,263
	Percent	99.8%	99.2%	88.8%	99.7%	99.6%	11.7%	98.0%
Supported employment outcomes	Number	222	239	249	201	207	-15	11,214
	Percent	14.8%	15.6%	16.1%	12.8%	12.3%	-6.8%	12.9%
Average hourly wage for competitive employment outcomes	Average	\$9.06	\$9.36	\$9.92	\$10.01	\$10.33	\$1.28	\$11.14
Average hours worked for competitive employment outcomes	Average	33.8	34.1	35.9	32.1	33.1	-0.7	30.9
Competitive employment outcomes at 35 or more hours per week	Number	929	956	957	877	975	46	42,997
	Percent	62.0%	62.5%	62.0%	55.9%	58.1%	5.0%	49.4%
Employment outcomes meeting SGA	Number	1,077	1,070	1,099	1,033	1,168	91	56,039
	Percent	71.9%	69.9%	71.2%	65.9%	69.6%	8.4%	64.4%
Employment outcomes with employer -provided medical								
insurance	Number	569	602	633	596	606	37	19,288
	Percent	38.0%	39.3%	41.0%	38.0%	36.1%	6.5%	22.2%

### **VR Performance Trends**

### **Positive Trends**

As shown in Table 2.1, NVR demonstrated positive trends during the five-year period between FY 2006 and FY 2010, particularly with regard to individuals exiting the program with employment outcomes. The largest percentage of individuals exiting the VR program in FY 2010 was individuals who exited with employment outcomes, which accounted for 33.9 percent of the total cases closed that fiscal year. This is higher than the national average of general agencies at 27.4 percent. The total number of individuals who exited with an employment outcome increased over the last five years by 11.9 percent, from 1,498 individuals in FY 2006 to 1,677 individuals in FY 2010. Similarly, the number of individuals who exited with a competitive employment outcome increased almost every year over the last five years from

1,495 individuals in FY 2006 to 1,670 in FY 2010. The percentage of individuals who exited with competitive employment outcomes has been above 99 percent over the last five years, except for FY 2008 when NVR experienced an overall decrease in the total number of cases closed.

The quality of employment outcomes for NVR consumers was higher than the national average for all general agencies. In FY 2010, the average hours worked for individuals exiting with competitive employment outcomes was 33.1 hours, while the national average of general agencies was 30.9 hours. Additionally, the percentage of individuals who exited with employment outcomes who met substantial gainful activity (SGA) in FY 2010 was higher at 69.6 percent, compared to the national average of general agencies at 64.4 percent. In the same year, the percentage of individuals who exited with employment and with employer-provided medical insurance was also higher at 36.1 percent as compared to the national average of general agencies at 22.2 percent.

### Trends Indicating Potential Risk to the Performance of the VR Program

During the five-year period, the number of individuals who exited the VR program after eligibility determination, but prior to receiving services, increased 27.4 percent over the last five years from 1,263 individuals in FY 2006 to 1,609 in FY 2010. These individuals accounted for 32.5 percent of the total cases closed in NVR in FY 2010. This is slightly higher than the national average of general agencies of 31.2 percent for the same population. The percentage of individuals who exited with employment with supports in an integrated setting decreased over the last five years from 14.8 percent in FY 2006 to 12.3 percent in FY 2010. While the average hourly wage for competitive employment outcomes consistently increased since FY 2006, the average hourly wage was lower at \$10.33 compared to the national average of general agencies of \$11.14 in FY 2010.

### **Fiscal Analysis**

Table 2.2 NVR Fiscal Performance Data for Federal FY 2007 through Federal FY 2011

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VR Fiscal Profile	Quarter	2007	2008	2009	2010	2011
Grant amount per MIS	4th	14,459,977	15,063,937	15,038,535	15,614,705	16,612,034
	Latest/ Final*	15,063,937	15,038,535	15,614,705	16,612,034	
Total outlays	4th	16,042,409	17,055,270	19,757,664	20,167,238	19,096,704
	Latest/ Final*	19,148,532	19,108,685	19,840,794	21,121,636	
Total unliquidated obligations	4th	1,129,185	1,292,354	1,028,044	908,850	1,758,838
	Latest/ Final*	0	0	0	0	
Federal Share of Total Outlays	4th	11,194,884	11,904,026	14,654,073	14,982,598	12,999,476
	Latest/ Final*	15,063,937	15,038,535	15,614,705	16,612,034	

VR Fiscal Profile	Quarter	2007	2008	2009	2010	2011
Federal share of unliquidated						
obligations	4th	949,843	1,186,724	952,773	715,265	1,758,838
	Latest/					
	Final*	0	0	0	0	
Total federal share	4th	12,144,727	13,090,750	15,606,846	15,697,863	14,758,314
	Latest/					
	Final*	15,063,937	15,038,535	15,614,705	16,612,034	
Recipient funds	4th	3,897,682	3,964,520	4,150,818	4,469,375	4,338,390
	Latest/					
	Final*	4,084,595	4,070,150	4,226,089	4,509,602	
Recipient share of unliquidated						
obligations	4th	179,342	105,630	75,271	193,585	0
	Latest/	_	_	_	_	
	Final*	0	0	0	0	
Agency actual match (total	4.1	4 077 024	4.070.150	4.226.000	4 460 275	4 220 200
recipient share)	4th	4,077,024	4,070,150	4,226,089	4,469,375	4,338,390
	Latest/ Final*	4,084,595	4,070,150	4,226,089	4,509,602	
				·		2.710.202
Agency required match	4th	3,029,873	3,221,801	3,966,096	4,055,011	3,518,283
	Latest/ Final*	4 077 025	4.070.150	4 22 6 000	4 406 014	
		4,077,025	4,070,150	4,226,089	4,496,014	
Over/under match	4th	(1,047,151)	(848,349)	(259,993)	(414,364)	(820,107)
	Latest/	(7.570)		0	(12.500)	
	Final*	(7,570)	0	0	(13,588)	
MOE **	4th					
	Latest/					
	Final*			4,226,089	4,509,602	
Unobligated funds qualifying for	4.1	2 010 210	1.047.705	7.050	014151	1 005 056
carryover	4th	2,919,210	1,947,785	7,859	914,171	1,825,276
	Latest/	0	0	0	0	
	Final*	0	0	0	0	
Total program income realized	4th	253,770	175,559	221,959	615,731	339,749
	Latest/	252 552	106.504	221.020	(15.503	
	Final*	253,770	196,504	221,959	617,702	
Total indirect costs	4th	856,212	906,247	1,225,075	12,156	1,041,395
	Latest/					
	Final*	1,116,426	1,086,228	1,083,844	1,224,774	

<sup>\*</sup>Denotes Final or Latest SF-269 or SF-425 Submitted

### **Fiscal Performance Trends**

A review of the fiscal performance data from FYs 2007 through 2011 yields several trends. State appropriated funds comprised between 82.2 to 94.5 percent of the agency's non-federal share over the five-year span. For FYs 2007 and 2010, the agency continued to report non-federal expenditures after the fourth quarter. While these funds continued adding to the agency's maintenance of effort (MOE) totals, the match level cannot exceed the sum of the non-federal

<sup>\*\*</sup>Based upon Final or Latest SF-269 or SF-425 Submitted

expenditures and non-federal unliquidated obligations at the fourth quarter. As a result, the agency reported that it had met its MOE requirement in all five years. However, in FYs 2010 and 2011 the SF-425 report indicates the agency incurred \$26,639 and \$149,926 less in non-federal funds than required, respectively, resulting in a match deficit impacting \$98,427 in federal FY 2010 funds and \$553,952 in carryover funds for those years. Discussions on-site and a review of supporting documentation revealed unliquidated obligations were not included in the recipient share of expenditures for those fiscal years. Carryover levels decreased through FY 2009 to \$7,859, then increased through FY 2011 to \$1,825,276. On the other hand, program income earned has varied on an annual basis, from a low of \$196,504 in FY 2008 to a high of \$617,702 in FY 2010. In FY 2011, \$3,052 in Social Security reimbursement program income funds were transferred from the VR program to the State Independent Living Services program. The federal share of unliquidated obligations at the fourth quarter has ranged from a low of 4.3 percent in FY 2010 to a high of 10.6 percent in FY 2011 in relation to the federal grant award.

# **SECTION 3: EMERGING PRACTICES**

While conducting the monitoring of the VR program, the review team collaborated with the NVR, the SRC, the TACE, and agency stakeholders to identify emerging practices in the following areas:

- strategic planning;
- program evaluation and quality assurance practices;
- financial management;
- human resource development;
- transition;
- the partnership between the VR agency and SRC;
- the improvement of employment outcomes, including supported employment and selfemployment;
- VR agency organizational structure; and
- outreach to unserved and underserved individuals.

RSA considers emerging practices to be operational activities or initiatives that contribute to successful outcomes or enhance VR agency performance capabilities. Emerging practices are those that have been successfully implemented and demonstrate the potential for replication by other VR agencies. Typically, emerging practices have not been evaluated as rigorously as "promising," "effective," "evidence-based," or "best" practices, but still offer ideas that work in specific situations.

As a result of its monitoring activities, RSA identified the emerging practices below.

### **Transition-age Youth**

• Certificate Program: The Certificate Program is based on a three-way partnership model to facilitate NVR consumers acquiring specific vocational skills within a community college setting targeted to the needs of local employers. The partnership is established between community colleges, community businesses, and NVR. NVR collaborates with the students and their families to determine what occupational skills are of interest to students and could be obtained through short-term training. NVR also collaborates with local businesses that are interested in employing NVR consumers on identified occupational skills and seek their commitment to mentoring students through part-time work. Once the needs of both the consumer and local business have been identified, partners jointly participate in the development of the curriculum with the community college. Each program is 15 hours or less, focused on entry-level work skills and workplace success. This partnership has led to entry-level jobs in the areas of automobile technicians, electricians, manufacturing, and heating and air conditioning. The Certificate Program will soon be expanded to include the trade of welding. Since its

development during FY 2011, NVR served 24 consumers and has expanded to six locations in three counties within the state.

• Youth Rehabilitation and Treatment Centers (YRTC): The YRTC Transition Liaison Program is an initiative to assist youth who have been discharged from the juvenile correctional facilities in Nebraska to successfully transition to educational programs in three counties. The program is co-funded by NVR and Office of Special Education within Department of Education and the Office of Juvenile Services within the Department of Health and Human Services. During the period of June 1, 2011 through January 31, 2012, 171 youth were released on parole from the participating facilities and were served by the YRTC liaison. The intervention provided included high school support (67 percent), GED support (23 percent), and post-secondary support (10 percent). Of the 171 youth released, 82 were referred to NVR to develop employment skills. NVR is currently assessing the effectiveness of the referral process and developing strategies to improve referral to application.

### Improvement of Employment Outcomes, Including Supported Employment and Self-Employment

Autism Supported Employment Program: NVR partners with Autism Center of Nebraska (ACN) Connections in matching the right people with the right jobs for individuals diagnosed with Autism Spectrum Disorder (ASD). ACN Connections operates within ACN to provide specialized job development, placement, coaching and retention services for individuals with ASD. Based in Omaha, NVR initially partnered with ACN Connections through a two-year project supported with VR funds under the American Recovery and Reinvestment Act of 2009 (ARRA) to develop a model to assist individuals with ASD find the best job match possible to meet their unique interests and skills. During the period of FY 2009 through FY 2011, ACN placed 21 of 24 individuals in employment, with nine reported as achieving successful VR supported employment outcomes. Currently, ACN Connections staff members have the specialized expertise to focus on the supports and special needs of those with autism while VR provides career planning and employment supports. Job placement occurred in a variety of settings including the hospitality industry, childcare, retail, grocery stores, warehouse, nursing homes, retirement communities, and a medical research center. Three individuals found full-time employment. Employment retention and extended supports are also priorities for ACN Connections staff, as very few individuals receiving support are eligible for long-term funding. By finding a good match between the individual with ASD, the employer and the job, ACN has also been able to reduce the need for direct staff intervention for job retention.

### **VR Agency Organizational Structure**

• **Tablets:** NVR staff use electronic tablets to increase productivity and efficiency in carrying out many aspects of their daily casework and administrative responsibilities,

including: connecting to NVR's intranet to collect and print consumer forms and information; sharing success story videos; accessing the internet for job searches, online job applications, pre-employment tests, and resource information; accessing their e-mail and work calendar; and completing time/leave reports and expense reimbursement forms. NVR staff report that utilization of the tablets enables them to quickly respond to consumer questions. NVR will continue to expand the functionality of the tablets to other casework areas.

• **Team Structure:** NVR provides VR services through a team structure in each of the field offices. The 14 teams across the state are comprised of staff with specialized strengths, skills, and knowledge in the areas of VR evaluation, counseling, placement, and support functions. Among the benefits of the team structure to the consumers is the availability of team members to ensure the continuity of services and access to the expertise of team members. During the early stages of the VR process, each team meets with consumers to orientate them to the team approach. This introduction facilitates the hand-off process of the consumer during the different stages of the VR process to team members with expertise in evaluation, counseling and placement.

# **SECTION 4: RESULTS OF PRIOR MONITORING ACTIVITIES**

During its review of the VR and SE programs in federal FY 2012, RSA assessed progress toward the implementation of recommendations accepted by NVR resulting from the prior monitoring review in FY 2007 and the resolution of compliance findings from that review.

### Recommendations

In response to RSA's monitoring report dated September 7, 2007, for FY 2007, NVR agreed to implement the recommendations below. A summary of the agency's progress toward implementation of each recommendation is included.

### 1. Outcomes for Transition-Age Youths

**Goal:** Expand and enhance the transition program for youths beginning at age 14 using shared resources and a coordinated planning process to help students engage in their education and establish post high school vision for education and employment.

### **Strategies:**

- 1.1A Explore how NVR can access data collected by the Nebraska Department of Education (NDE); and
- 1.1B Ensure that measurement data can be collected and retrieved from QUEST, NVR's system for collecting and tracking consumer data.

**Status**: In 2008, NVR started using the Nebraska Student and Staff Recording System (NSSRS), an initiative developed by NDE that assigns all students within the state an identification number. NVR is able to receive reports from the NSSRS specific to statewide special education data which contains age and disability descriptors. NVR utilizes this information in its outreach to schools and students to assess the impact and effectiveness of NVR's outreach efforts. Currently, eight NVR staff members have access to the NSSRS system.

NVR is also able to access data from the post-school outcome survey collected annually by the Nebraska Office of Special Education. This data is collected via telephone survey one-year post-school exit for all students who had an Individualized Education Program (IEP) at school exit. In Nebraska, there is an attempt to contact all special education students who exited school, rather than a sampling. NVR is able to request special data reports from this program to review and assess outcomes specific to students who stated they either were, or are currently working with NVR.

In 2007, NVR established a baseline for the transition standards and indicators to be tracked quarterly and reported annually. The standards and indicators are the following:

- the number of transition students that apply for services;
- the number of successful (employment) outcomes for consumers who had received transition services; and
- the rehabilitation rate for consumers who had received transition services.

### 2. Quality Employment Opportunities

**Goal:** Increase quality job opportunities for persons with disabilities through partnerships with businesses offering a wide range of positions, a living wage, benefits, and career advancement.

### **Strategies:**

- 2.1A Develop relationships with employers who have the capacity to establish scholarships for transition students;
- 2.1B Develop a system for tracking the total number of employers offering employment scholarships, the total number of scholarships offered, and the total number of students with a scholarship who achieve an employment outcome;
- 2.2A Determine criteria to be used for targeting employers who offer quality wages and benefits;
- 2.2B Develop relationships with targeted employers meeting the established criteria; and
- 2.2C Develop a system for tracking outcomes for consumers employed by targeted employers.

**Status:** NVR is no longer seeking businesses for transition scholarships. Instead, NVR is developing and expanding Project Search and the Certificate Program. Project Search was established in Nebraska during August, 2009 and is currently located at nine locations throughout the state. This model takes low functioning high school students who were thought to be unemployable, gives them real life job skills, and allows them to become competitively employed. One business trains 10 to 12 students over the course of a school year by providing three structured internships. In this model, the business drives the process by selecting the sites, providing mentors, providing class space, and allowing one staff member to be the coordinator. The school provides the teacher, job coach, and students. NVR provides funding, short and long-term supports and job placement.

Building on the Project Search model, NVR recently developed the Certificate Program during FY 2011 to be applied to students who are high functioning but still need further skill development. Unlike Project Search that focuses on one business and collaboration with a high school, the Certificate Program focuses on a specific occupation and collaborates with a community college. In this model, NVR is targeting a job involving multiple businesses and partnering with a local community college to develop training curricula that meet the needs of the employer partners. NVR receives a report from each site listing school completion and hiring information. The Certificate Program was previously enumerated above in detail in Section 3.

### 3. Consumer Satisfaction

**Goal:** Create an effective system for assessing consumer satisfaction during and following a consumer's program of rehabilitation with the objective of using the consumer feedback to make enhancements to the VR program.

### **Strategies:**

- 3.1A Develop and pilot a consumer satisfaction survey to be completed by the consumer immediately following the employment discussion, and implement the survey statewide; and
- 3.1B Expand the consumer satisfaction survey to one or more other aspects of the VR process.

**Status:** NVR collaborated with the State Rehabilitation Council (SRC) to develop four consumer satisfaction surveys. Consumers were surveyed at the following stages:

- after employment discussion (initial appointment);
- at the time of IPE completion;
- at the time they began job placement services; and
- after successful closure.

After a series of survey trials in which confidentiality was assured to all consumers, NVR and the SRC determined that meaningful data could not be extracted from the first three surveys completed via online or hard copy formats and were discontinued. The successful closure survey is completed during the 90-day Employment Warranty (EW) contact made by the Easter Seals EW Monitor. This telephone survey is completed via Easter Seals and the EW Monitor inputs the survey responses directly into NVR management information system.

The SRC reviews all survey results and recommends changes to NVR. During FY 2011, the SRC established a Consumer Input Committee that is comprised of 16 individuals from across the state who are currently receiving services or with closed cases. When NVR or SRC is seeking more immediate input from clients regarding changes in policies or procedures, these individuals are contacted through e-mail to solicit feedback about proposed changes.

### 4. Employment Outcomes

**Goal:** Improve the effectiveness of the VR program in assisting individuals with disabilities to achieve quality employment outcomes.

### **Strategies:**

- 4.1A Conduct team case reviews during FY 2008 on unsuccessful cases in order to identify consumer planning and readiness factors and agency processes that contribute to unsuccessful outcomes; and
- 4.1B Explore the feasibility of surveying unsuccessful consumers to identify consumer planning and readiness factors and agency processes that contribute to unsuccessful outcomes.

**Status:** Case reviews were completed on unsuccessful cases for each of the 14 teams. The review team consisted of six members of the state office program team and the office director from the team being reviewed. Each team had at least one staff participating, and some teams had all their NVR Specialists involved. At the conclusion of the review, a teleconference was held between the review team and any team members who were not participating in the reviews. A memo was also developed and sent to the entire team informing them of the case review findings. Recommendations from the reviews provided clarification on process surrounding collateral contact information, coding issues, and providing clarification for identifying staff responsibilities in regard to documentation when opening a case that has been unsuccessfully closed.

NVR contracted with Easter Seals to conduct surveys for consumers who had been closed unsuccessfully during FY 2011. The Easter Seals monitors were provided the names of 300 consumers with unsuccessful closures in the following stages:

- 100 consumers who exited the VR program after an application was taken but before they were found eligible;
- 100 consumers who exited after eligibility but before a plan was completed; and
- 100 consumers who exited after a plan was completed.

NVR was interested in determining what percentage of the above 300 consumers could be contacted, what percentage of those contacted would complete the survey, and if there was any difference in the contact rate for these three groups. Based on the low response rate, NVR determined no trends could be established to help NVR identify processes that could be modified to improve its performance. After further review by the SRC, it was recommended that NVR discontinue the survey conducted by telephone and begin to explore an alternative survey method through face-to-face forums. During the on-site, TACE Region VII was informed of this challenge and will assess practices conducted by other VR agencies for NVR's consideration.

### **5. Employment Retention**

**Goal:** Improve the system for gathering and evaluating data on consumer employment at 90 days, 180 days, and one-year following the employment outcome.

### **Strategies:**

5.1A Develop in QUEST a system to identify employment data elements for collection and measurement to evaluate the long-term employment outcomes of consumers; and5.1B Recruit and train individuals with disabilities to monitor consumers in the EW program.

**Status:** NVR is currently awaiting reauthorization to identify the data elements which will be integrated into its new case management system for data and report collection in order to measure and evaluate long-term employment outcomes. NVR has contracted with Easter Seals

to monitor consumers in the EW program. Easter Seals began monitoring SSA consumers seven years ago and non-SSA consumers three years ago. An individual with a disability was hired to monitor the non-SSA consumers three years ago and remains in that position today.

### VR and SE Recommendations

1. Mapping Agency Processes - NVR should consider exploring advantages of mapping agency processes systematically using consultant with expertise in quality assurance methodology. NVR has in place many effective processes that lead to successful consumer outcomes. Having a method to catalog these processes would prove beneficial in helping the agency maintain the progress it makes, even when current staff retire and new staff become employed with the agency.

**Status:** NVR is currently developing decision point checklists for NVR processes based on the staff expertise within the agency. Input has been provided by the VR Leadership Council which is comprised of representatives from each team throughout the state.

**2. Earnings Goals** - NVR should consider setting goals regarding increasing earnings for its consumers. Through such initiatives as increasing the number of accounts agency staff have with targeted employers who provide jobs with high wages and benefits, it is clear that NVR is interested in raising the earnings of its consumers. However, without an earnings goal, it is difficult to determine whether NVR is making substantial progress on this issue.

**Status:** NVR has met Standard 1.3 (Percent with earnings above minimum wage) and Standard 1.5 (Ratio of average earnings to state average earnings) every year since FY 2000.

# **Compliance Findings and Corrective Actions**

There were no compliance findings from the monitoring review conducted during FY 2007.

# **SECTION 5: FOCUS AREAS**

# A. Organizational Structure Requirements of the Designated State Agency (DSA) and Designated State Unit (DSU)

The purpose of this focus area was to assess the compliance of NVR with the federal requirements related to its organization within Nebraska Department of Education (NDE) and the ability of the NVR to perform its non-delegable functions, including the determination of eligibility, the provision of VR services, the development of VR service policies, and the expenditure of funds. Specifically, RSA engaged in a review of:

- the progress of NVR toward the implementation of recommendations and the resolution of findings related to these requirements identified in prior monitoring reports (see Section 4 above);
- compliance with statutory and regulatory provisions governing the organization of the NDE and NVR under 34 CFR 361.13(b);
- processes and practices related to the promulgation of VR program policies and procedures;
- the manner in which NVR exercises responsibility over the expenditure and allocation of VR program funds, including procurement processes related to the development of contracts and agreements;
- procedures and practices related to the management of personnel, including the hiring, supervision and evaluation of staff; and
- the manner in which NVR participates in the state's workforce investment system.

In the course of implementing this focus area, RSA consulted with the following agency staff and stakeholders:

- NDE and NVR directors and senior managers;
- NDE and NVR staff members responsible for the fiscal management of the VR program;
- SRC Chairperson and members;
- Greater Lincoln local workforce investment board liaison and one-stop staff;
- Client Assistance Program (CAP) director; and
- TACE center representative.

In support of this focus area, RSA reviewed the following documents:

- diagrams and supporting documentation illustrating the DSU's position in relation to the DSA, its relationship and position to other agencies that fall under the DSA, and the direction of supervisory reporting between agencies;
- diagrams and supporting documentation identifying all programs from all funding sources that fall under the administrative purview of the DSU, illustrating the number of full-time equivalent (FTE) staff working on each program;

- the number of full-time employees (FTEs) in each program, identifying the specific programs on which they work and the individuals to whom they report, specifically including:
  - individuals who spend 100 percent of their time working on the rehabilitation work of NVR:
  - o individuals who work on rehabilitation work of the NVR and one or more additional programs/cost objectives (e.g., one-stop career centers); and
  - o individuals under NVR that do not work on VR or other rehabilitation within the DSU
- sample memoranda of understanding (MOUs) and/or cost allocation plans with one-stop career centers; and
- documents describing Nebraska's procurement requirements and processes.

### Overview

NVR, the DSU for the VR and SE programs, is located within the Nebraska Department of Education (NDE), the DSA. NDE is led by a commissioner, appointed by the Nebraska State Board of Education, an eight-member elected body representing each district throughout the state and serving four-year terms. The commissioner appoints the deputy commissioner who serves the role of chief of staff in managing the daily administrative functions of the agency. NVR, along with all other units within NDE, reports and communicates through the deputy commissioner to the commissioner.

NVR is comprised of four units including Vocational Rehabilitation, Disability Determination Services (DDS), the Nebraska Assistive Technology Program (NATP), and the CAP. At the time of the review, NVR reported a total of 288 staff employed, including 190 in the VR program, 71 in DDS, 25 in NATP, and two in the CAP. In NVR's VR program, the VR state office is comprised of 42 staff and the field offices are comprised of 148 staff. The field staff operate in a team structure with 14 teams in the state ranging in size from six to 14 staff each, made up of VR counselors, evaluators, placement specialists, and associates.

RSA's review of the organizational structure of NVR did not result in the identification of observations and recommendations. In addition, the implementation of this focus area did not result in the identification of compliance findings.

# B. Transition Services and Employment Outcomes for Youth with Disabilities

The purpose of this focus area was to assess NVR's performance related to the provision of transition services to, and the employment outcomes achieved by, youth with disabilities and to determine compliance with pertinent federal statutory and regulatory requirements.

Section 7(37) of the Rehabilitation Act defines "transition services" as a coordinated set of activities for a student, designed within an outcome-

oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.

In the course of implementing this focus area, RSA identified and assessed the variety of transition services provided in the state, including community-based work experiences and other in-school activities, and post-secondary education and training, as well as the strategies used to provide these services. RSA utilized five-year trend data to assess the degree to which youth with disabilities achieved quality employment with competitive wages. In addition, RSA gathered information related to the coordination of state and local resources through required agreements developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and the Rehabilitation Act, and communities of practice. RSA also gathered information regarding emerging practices initiated by the VR agency in the area of services to youth with disabilities, as well as technical assistance and continuing education needs of VR agency staff.

To implement this focus area, RSA reviewed:

- the progress toward the implementation of recommendations accepted by NVR and the resolution of findings related to the provision of transition services identified in the prior monitoring report from FY 2007(see Section 4 above);
- formal interagency agreements between the VR agency and the state educational agency (SEA);
- transition service policies and procedures;
- VR agency resources and collaborative efforts with other federal, state and local entities; and
- other cooperative agreements.

In support of its monitoring activities, RSA reviewed the following documents:

- the agreement between the VR agency and the state education agency (SEA);
- samples of other cooperative agreements; and
- VR policies and procedures for the provision of transition services.

To assess the performance related to the provision of transition services and the outcomes achieved by youth with disabilities, RSA reviewed NVR relevant data from FY 2006 through FY 2010, describing:

- the number and percentage of transition-age youth who exited the VR program at various stages of the process;
- the amount of time these individuals were engaged in the various stages of the VR process, including eligibility determination, development of the individualized plan for employment (IPE) and the provision of services;
- the number and percentage of transition-age youth receiving services, including assessment, university and vocational training, rehabilitation technology and job placement; and
- the quantity, quality and types of employment outcomes achieved by transition-age youth.

RSA also compared the performance of NVR with peer agencies during the same period, as well as with national averages for other general VR agencies. For purposes of this review, the peer agencies selected were Idaho-General, Iowa-General, Maine-General, and New Mexico-General VR agencies.

As part of its review activities, RSA met with the following DSA and DSU staff and stakeholders to discuss the provision of services to youth with disabilities:

- the NVR director;
- NVR VR Counselors and transition staff;
- the Nebraska Office of Special Education director and staff; and
- the NVR transition coordinator serving as liaison with the SEA and other agencies.

RSA's review of transition services and employment outcomes achieved by youth with disabilities resulted in the identification of the following observation and recommendation. Appendix A of this report indicates whether or not the agency has requested technical assistance to enable it to implement any of the below recommendations. In addition, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

### **5.B.1 NVR Service Delivery to Transition Population**

**Observation:** In restructuring its service delivery to transition-age youth, NVR needs to examine such planning factors as: building on its transition to independence model with transition-age youth as VR consumers; educating and training the SEA and local school districts regarding appropriate transition referrals to NVR; managing the transition caseloads within its team structure; and utilizing the transition IPE workbook.

• NVR begins working with transition-age youth as early as the age of 14. This begins the pre-planning phase by taking into account the pace of the student who often does not have a vocational direction at this developmental stage. However, NVR developed a transition to independence model that includes students beginning to have opportunities

- to identify interests and understand the world of work and adult living prior to becoming VR consumers.
- The SEA and local school systems are currently operating under the arrangement that there are two separate VR programs, one to serve the transition population and one for the adult population. As a result, school referral sources may not be aware of the eligibility criteria for students with disabilities applying for the VR program.
- During on-site discussions with NVR counselors working primarily with the transition population, they indicated their caseload sizes range from 150 to 250 individuals. While this is considered to be a high caseload, the counselors explained that it is manageable since they do not have the same paperwork requirements in handling application, eligibility determination, and IPE development compared to peers within their teams serving the adult population. At the time the transition student would apply for the VR adult program, these counselors indicated they would hand off the case to a VR counselor on the team handling adult caseloads;
- NVR developed a comprehensive transition IPE workbook, separate from the VR adult program. During on-site discussions with NVR staff, RSA learned that students enrolled in the NVR transition program are generally required to complete this workbook as a self-exploration tool before applying for VR services. NVR management received feedback from several stakeholders that the workbook is overwhelming to complete and not useful to both NVR consumers and staff.

### **Recommendation 5.B.1:** RSA recommends that NVR:

- 5.B.1.1 continue to build on the transition to independence model to be applied to transition students as VR consumers in order to work toward and achieve goals in the area of employment;
- 5.B.1.2 develop and implement strategies to provide education and training to the SEA as well as local school districts about what constitutes an appropriate referral to the VR program;
- 5.B.1.3 reassess the caseload management within the 14 teams throughout the state to ensure equitable distribution of workload among caseload carrying staff in the new transition service delivery model; and
- 5.B.1.4 continue to examine the utility of the transition IPE workbook with key stakeholders in order to ensure a more flexible method of administration that becomes a useful source of information for both NVR consumers and staff.

### **Technical Assistance**

• RSA provided a sample SEA agreement comprising the four required elements based on VR regulations for reference by NVR. The current SEA agreement between NVR and NDE outlines high level state level planning, coordination, training, and related activities. The SEA agreement is enumerated in detail in Section 6.

### C. Fiscal Integrity of the Vocational Rehabilitation Program

For purposes of the VR program, fiscal integrity is broadly defined as the proper and legal management of VR program funds to ensure that VR agencies effectively and efficiently manage funds to maximize employment outcomes for individuals with disabilities. Through the implementation of this focus area, RSA assessed the fiscal performance of the VR and SE programs and compliance with pertinent federal statutory and regulatory requirements, including cost principles, governing four components of review: financial resources, match and maintenance of effort (MOE), internal controls, and fiscal planning.

RSA used a variety of resources and documents in the course of this monitoring, including data maintained on RSA's MIS generated from reports submitted by the VR agency, e.g., Financial Status Report (SF-269/SF-425) and the Annual VR Program/Cost Report (RSA-2). The review covered fiscal data from FY 2007 thru FY 2011, along with other fiscal reports as necessary, to identify areas for improvement and potential areas of noncompliance.

Where applicable, RSA engaged in the review of the following to ensure compliance with federal requirements:

- the federal FY 2007 monitoring report issued pursuant to Section 107 of the Rehabilitation Act (see Section 4 above for a report of the agency's progress toward implementation of recommendations and resolution of findings);
- A-133 audit findings and corrective actions;
- state/agency allotment/budget documents and annual federal fiscal reports;
- grant award, match, MOE, and program income documentation;
- agency policies, procedures, and forms (e.g., monitoring, personnel certifications, procurement and personnel activity reports), as needed; and
- documentation of expenditures including contracts, purchase orders and invoices.

In addition RSA reviewed the following as part of the monitoring process to ensure compliance:

- internal agency fiscal reports and other fiscal supporting documentation; and
- VR agency cost-benefit analysis reports.

RSA's review of the fiscal integrity of the VR Program administered by NVR resulted in the identification of the following observations and recommendations. Appendix A of this report indicates whether or not the agency has requested technical assistance to enable it to implement any of the below recommendations. In addition, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

### **Observations and Recommendations**

### **5.C.1 NVR Monitoring**

**Observation:** NVR's monitoring processes for grant-supported activities are not formalized into policies and procedures in such a manner that ensures uniform application of monitoring, promotes training for new staff, or supports succession planning activities.

NVR staff who participate in monitoring of grant-supported activities do so at various levels of the DSU.

- State office program directors review contract language and ensure terms and conditions
  include grant monitoring activities that identify procedures to assess whether
  performance goals are achieved with respect to output/workload, efficiency, and
  outcome/effectiveness.
- A fiscal staff member located in the field conducts the fiscal auditing procedures that include high cost purchases.
- Office directors review and sign service agreements and participate in quarterly meetings with CRPs under contract to provide services to VR consumers.
- VR specialists and service specialists in the field function as liaisons to CRPs, meeting quarterly and serving as a single point of communication for CRP staff concerns related to the contracts.

Discussions with NVR staff on-site revealed that despite this multi-level monitoring of performance goals and grant-supported activities, without formal policies and procedures, NVR staff have no reference materials to ensure consistency in monitoring grant-supported activities with CRPs. The development of policies and procedures will allow NVR to uniformly conduct monitoring activities, train new staff on the monitoring protocol and CRP liaison duties, and facilitate succession planning activities.

### **Recommendation 5.C.1:** RSA recommends that NVR:

- 5.C.1.1 review all monitoring activities in which NVR staff participate to identify efficient and effective monitoring practices; and
- 5.C.1.2 develop policies and procedures operationalizing the identified monitoring practices to ensure consistent implementation and training for staff.

### **5.C.2 ATP Contract**

**Observation:** NVR has entered into a memorandum of understanding (MOU) with the Assistive Technology Program (ATP) to provide AT services to VR consumers. The MOU does not include the identification of the AT services to be provided, the service delivery process, or roles and responsibilities of the ATP and VR staff. Further discussions with NVR staff identified additional information and policies that support the MOU, which are not included as part of the MOU document, including an ATP/VR Partnership policy in the NVR Program Manual, and the original proposal for the partnership from FY 1997.

- The MOU includes a budget request for the current fiscal year, compared to the previous fiscal year, updates to the full-time equivalent ATP staff and the program's catchment areas, and the previous year's outcome data including referrals and services provided. While ATP staff track their time and are paid with VR funds for time spent working with VR consumers only, this information is not included in the MOU.
- The ATP/VR Partnership document includes the process for referral, information gathering, AT assessment activities conducted, and the evaluation report with recommendations and quotes. It references the ATP Funding Coordinator who seeks comparable benefits, as well as additional VR and ATP staff roles and responsibilities, including the process for sending service authorizations from VR to ATP staff for AT equipment, and inspection procedures of the project.
- The original ATP proposal was implemented in FY 1997 and describes the impetus for the partnership including background information. The document identifies the start-up costs and ongoing expenses associated with the original proposal at that time. Staff positions and AT services are identified.

While the information identified from the three sources, the MOU, ATP/VR Partnership policy, and original proposal, describe AT services and roles and responsibilities of VR and ATP staff included in the partnership, the information is not easily accessed in one location, and the proposal language defining the AT services provided is outdated and no longer relevant to the current functioning of the ATP/VR partnership.

### **Recommendation 5.C.2:** RSA recommends that NVR:

- 5.C.2.1 review and update the ATP proposal language to identify the current needs of the program, define the services to be provided, and incorporate them into the MOU;
- 5.C.2.2incorporate the policies and procedures from the ATP/VR Partnership policy into the MOU; and
- 5.C.2.3 update the MOU based upon review of the ATP proposal and ATP/VR Partnership policy, and include language associated with ATP personnel cost tracking and procedures for monitoring the ATP program.

### **Technical Assistance**

RSA provided technical assistance to NVR regarding:

- SF-425 instructions to include recipient share of unliquidated obligations in the recipient share of expenditures data element;
- the need to ensure that each program that it administers must receive an appropriate allocation of indirect costs;
- the need to ensure staff working on multiple programs must ensure that each program receives an appropriate allocation of costs based upon actual time spent working in the program; and

•	the need to increase internal controls related to funds disbursed directly to consumers to ensure that funds are traceable and expended on allowable VR program services in accordance with VR and federal regulations.

# SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS

RSA identified the following compliance findings and corrective actions that NVR is required to undertake. Appendix A of this report indicates whether or not the agency requests technical assistance to enable it to carry out the corrective actions. The full text of the legal requirements pertaining to each finding is contained in Appendix B.

NVR must develop a corrective action plan for RSA's review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and RSA is available to provide technical assistance to assist NVR to develop the plan and undertake the corrective actions.

RSA reserves the right to pursue enforcement action related to this/these findings as it deems appropriate, including the recovery of funds, pursuant to 34 CFR 80.43 and 34 CFR part 81 of EDGAR.

### 1. Unallowable Service Provision through the NVR "Transition Program"

### **Legal Requirements:**

- Rehabilitation Act Sections 7(38); 102(a)(6) and 102(b)(3); 103(a); and 111(a)(1)
- VR Program Regulations 34 CFR 361.3; 34 CFR 361.5(b)(58); 34 CFR 361.41(b)(1) and 361.41(b)(2); 34 CFR 361.46(a); and 34 CFR 361.48

### **Background:**

NVR provides services to transition-age youth through its "transition program," distinguishing the provision of services to these individuals from those to adults with disabilities. According to NVR management, the NVR transition program is a comprehensive outreach system designed to engage transition-age students with disabilities until they enter the VR program, sometimes referred to by NVR as the "employment" or "adult" program. At the time that students with disabilities are referred to NVR for services, typically between the sophomore and senior year in high school, both students and parents/guardians sign a "Transition Services Consent and Information Release Form" (Consent Form), enrolling the students in NVR's transition program until the student is transferred to the VR program. According to language contained in the Consent Form, students receive "assistance with planning for work or training after high school" and are permitted to "receive transition services, apply for and receive services in VR's employment program and to participate in the development of an IPE" while engaged in the transition program.

During this stage of service delivery, the parents and students do not complete a formal application for VR services, nor does NVR determine eligibility or develop IPEs for the students. These processes do not occur until the students enter the VR program when they require services to be purchased (referred to by NVR as "external" or "cost" services) or when the students exit the school setting. The duration of student participation in the transition program ranges from a few months to three years. All services under the transition program are provided by VR staff, including the VR counselor, service specialist, service associate, vocational evaluator, job placement specialist, and/or assistive technology specialist.

Once students are about to leave the school setting and engage in employment or pursue higher education, NVR accepts an application for VR services and the eligibility process begins. Eligibility is largely determined based on information received from the school upon the initial entrance into the transition program, as well as additional medical, psychological, or other assessment or evaluation data deemed necessary to determine eligibility. Those students determined eligible for services continue working with their VR counselors or service specialists to develop IPEs. Students receiving services through the transition program who are not determined eligible for the VR program cease receiving services.

### **Finding:**

NVR is not in compliance with Section 111(a)(1) of the Rehabilitation Act and regulations at 34 CFR 361.3 because it provides VR services to transition-age youth who are not applicants for, or who have not been determined eligible to receive, these services. Specifically, NVR provides VR services to transition students without implementing the federal requirements governing the acceptance of applications, the determination of eligibility, and the development of IPEs.

Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3 require that VR program funds be expended solely for the provision of VR services and the administration of the VR program. To constitute an allowable expenditure as a VR service, the costs must be incurred in the provision of VR services to individuals in accordance with their approved IPEs, pursuant to Section 103(a) of the Rehabilitation Act and 34 CFR 361.48, or to groups of individuals with disabilities, pursuant to Section 103(b) of the Act and 34 CFR 361.49 (Section 7(38) of the Rehabilitation Act; 34 CFR 361.5(b)(58)). As discussed below, the services described on the Consent Form, which are of an individualized nature, cannot be provided to any individual, whether a youth with disabilities or an adult, without the individual applying for services and NVR determining eligibility and developing an IPE specifying those services necessary for the achievement of an employment outcome.

### A. Application

NVR is not in compliance with the requirements of 34 CFR 361.41(b)(2) because it does not initiate the VR service delivery process for transition-age youth through the acceptance of an application. In accordance with 34 CFR 361.41(b)(2)(i) – (iii), an individual is considered to have made an application for services when he or she:

- (i) (A) Has completed and signed an agency application form;
  - (B) Has completed a common intake application form in a One-Stop center requesting vocational rehabilitation services; or
  - (C) Has otherwise requested services from the designated State unit;
- (ii) Has provided to the designated State unit information necessary to initiate an assessment to determine eligibility and priority for services; and
- (iii) Is available to complete the assessment process.

Although NVR does not treat the Consent Form as an application for VR services, the content of the form, along with its execution by the parents/guardians, in actuality constitutes an application for VR services as described in these regulations. Typically, the Consent Form is provided to the student and family during an individualized education program (IEP) meeting. As stated above, the language of the form clearly indicates that the parent/guardian is giving permission for the student to receive "transition services," a category of individualized VR services specified in Section 103(a)(15) of the Rehabilitation Act and 34 CFR 361.48(r). The language of the Consent Form indicates that these transition services are designed to assist the student to:

- engage in career exploration activities;
- learn habits, attitudes, and behaviors for work;
- learn skills for adult living;
- take part in community work experiences;
- learn about his or her strengths, abilities, and capabilities for work and adult living;
- identify goals for work and adult living; and
- learn language, mathematics, and reasoning skills for work.

Though not a formal application for services, the permission given through the Consent Form for the provision of these services clearly constitutes a request for VR services in accordance with 34 CFR 361.41(b)(2)(i)(C).

Next, after NVR receives the signed Consent Form, NVR staff may receive educational records and other information regarding the student from the school in order to conduct vocational planning. The Consent Form details the records NVR can access, including, but not limited to the following:

- school multidisciplinary team report;
- individual Education Program;
- psychological evaluations and reports;
- work experience information and records;
- school cumulative grade records, including standardized test results; and
- school grades and progress reports.

By agreeing to the release of the above information, the parent /guardian has provided information sufficient to begin the process of determining the student's eligibility and priority for services, thereby satisfying the requirements of 34 CFR 361.41(b)(2)(ii).

Finally, because the parent/guardian grants permission for the receipt of VR services through execution of the Consent Form, NVR can presume that the student is available to participate in an assessment for the determination of his or her eligibility as required by 34 CFR 361.41(b)(2)(iii). Consequently, all three criteria specified in 34 CFR 361.41(b)(2) are met and the execution of the Consent Form constitutes an application for VR services.

Nonetheless, during on-site interviews with NVR staff and management, RSA learned that the Consent Form is not considered to be an application for transition services and that the agency does not require a formal application for these services following receipt of the form. Instead, the Consent Form and student background materials provided by the school only initiate the creation of a transition file which is maintained in a paper-based format. The file is tracked within NVR's database system and is not used as a basis for documenting the date of application for RSA reporting purposes.

### **B.** Eligibility

NVR is not in compliance with Section 102(a)(6) of the Rehabilitation Act and 34 CFR 361.41(b)(1) because NVR does not determine whether an individual is eligible to receive services within 60 days from the date an application for VR services is made by transition-age youth.

As described above, the execution of the Consent Form by the parent/guardian constitutes an application for VR services. However, because NVR does not consider the form to be an application and does not require the submission of a formal application for services when the form is signed, NVR is not proceeding with the determination of eligibility. The transition chapter of the NVR policy manual on page six states the following: "Unless otherwise specified, all forms and process required for movement into the Employment Program apply to individuals moving from the Transition Program to the Employment Program." The distinct reference to the transition program and the employment program supports the notion that NVR manages the transition program separate from the VR program and its belief that eligibility determinations need not be made until transition students exit the school setting to pursue work or higher education.

Although only eligible individuals can receive transition and other VR services specified in Section 103(a) of the Rehabilitation Act and 34 CFR 361.48, NVR management and staff acknowledged that the agency provides these services to transition students prior to the determination of their eligibility.

### C. Development of the IPE

NVR is not in compliance with Sections 102(b)(3) or 103(a) of the Rehabilitation Act and 34 CFR 361.46(a) and 361.48 because it provides VR services to transition-age youth prior to developing an IPE outlining the services necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome.

Section 103(a) of the Rehabilitation Act and regulations at 34 CFR 361.48 state that VR services are those services that are necessary for an individual to prepare for, secure, regain or retain employment and that are specified on the IPE. Therefore, those VR services then listed in Section 103(a) and 34 CFR 361.48 can only be provided to an individual if they are specified in an IPE meeting the requirements set forth in the Rehabilitation Act and regulations. The IPE must contain, among other items as appropriate for the individual, the individual's specific employment goal; the services needed for the individual to achieve the goal; timelines for the provision of, and the providers of, the services; and the criteria for evaluating progress toward achievement of the goal (Section 102(b)(3) and 34 CFR 361.46(a)).

The Consent Form, the only form through which NVR provides VR services to transition students, does not contain sufficient information to comprise an IPE in accordance with these requirements. In addition, NVR management and senior staff reported during on-site discussions that IPEs are not developed until transition students are enrolled in the adult employment program, explaining it is their experience that students are not prepared to identify an employment goal at a young age.

Despite the absence of an approved IPE, NVR is providing transition and other VR services specified in Section 103(a) of the Rehabilitation Act and 34 CFR 361.48 to students with disabilities. Furthermore, services are provided to transition students prior to the receipt of an application and determination of eligibility. According to NVR staff, the services provided include counseling and guidance, vocational evaluation, career exploration, job readiness and job seeking skills training, assistive technology assessment, job development and job placement with internship opportunities. While counseling and guidance can and should be provided from the beginning of the VR process when eligibility is determined and vocational evaluations can be used effectively when identifying the employment goal, those other services such as work experience and job placement must only be provided following the development of the IPE.

In summary, because NVR does not engage transition-age youth in the federally-prescribed stages of the VR process, including the receipt of an application, the determination of eligibility and the development of an IPE, it provides VR services to individuals who are not applicants, and who have not been determined eligible, for such services. Consequently, the agency is not in compliance with Section 111(a)(1) of the Rehabilitation Act and regulations at 34 CFR 361.3.

### **Corrective Action 1:** NVR must:

1.1 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will:

- a) require the submission of an application at the time the Transition and Services Consent and Information Release form is signed by the transition student and parent, in order to comply with 34 CFR 361.41(2);
- b) determine eligibility within 60 days once a transition student has submitted an application for VR services, in order to comply with Section 102(a)(6) of the Rehabilitation Act and 34 CFR 361.41(b)(1); and
- c) develop an IPE for a transition student upon the determination of eligibility and only provide VR services to program applicants or individuals determined eligible to receive such services under an approved IPE, in order to comply with Sections 102(b)(3) and 103(a) of the Rehabilitation Act and 34 CFR 361.46(a) and 34 CFR 361.48;
- 1.2 amend the transition chapter of the NVR policy manual to reflect the assurance above;
- 1.3 submit to RSA a copy of the revised transition chapter of the NVR policy manual; and
- 1.4 provide training to NVR staff on revised agency policies and procedures related to application, eligibility determination, and IPE development for transition-age youth.

### 2. Untimely Development of IPEs for Transition-Age Youth

### **Legal Requirements:**

• VR Program Regulations – 34 CFR 361.22(a)(2)

### Finding:

NVR is not in compliance with regulations at 34 CFR 361.22(a)(2) because NVR has not established written policies regarding the development and approval of IPEs for transition-age youth found eligible for the VR program prior to their exit from the school setting. Specifically, the regulations require VR agencies to establish written policies that:

provide for the development and approval of an individualized plan for employment in accordance with §361.45 as early as possible during the transition planning process but, at the latest, by the time each student determined to be eligible for vocational rehabilitation services leaves the school setting or, if the designated State unit is operating under an order of selection, before each eligible student able to be served under the order leaves the school setting.

However, NVR has adopted a written policy that is not consistent with this federal requirement. The transition chapter of the NVR policy manual on page eight states the following: "Students approaching exit that are uncertain about their future plans or willingness to work with VR can be left open until December 31st of their graduating year." This allows the development of the IPE to occur up to six months following a student's departure from high school. During the review, NVR staff reported that these additional six months are used to determine whether the student and VR counselor will commence with the application process, eligibility determination and finally the development of the IPE (see Finding 1 above).

In addition, during the on-site review, NVR staff also reported to RSA that the agency determines eligibility and develops IPEs for approximately only half of the transition-age youth served through its "transition program" prior to their leaving the school setting. These staff attributed this practice to their belief that significant numbers of transition program students are not ready to make a decision about participating in VR services at the time of graduation.

Based on the foregoing, the NVR policy and its practices related to the development of IPEs for transition-age youth are not in compliance with federal requirements.

#### **Corrective Action 2:** NVR must:

- 2.1 submit a written assurance to RSA within 10 days after the final monitoring report is issued that IPEs for eligible transition-age youth will be developed and approved prior to their exit from the school setting, in accordance with 34 CFR 361.22(a)(2);
- 2.2 revise its written policies to be consistent with 34 CFR 361.22(a)(2) by requiring that IPEs for eligible transition-age youth be developed and approved prior to their exit from the school setting; and
- 2.3 provide training on the federal requirements and the revised policy to all counselors and other staff involved in the provision of VR services to transition-age youth.

### 3. Interagency Agreement with the State Educational Agency

### **Legal Requirements:**

- Rehabilitation Act Section 101(a)(11)(D)(i) (iv)
- VR Program Regulations 34 CFR 361.22(b)(1) (4)

### **Finding:**

NVR is not in compliance with Section 101(a)(11)(D) of the Rehabilitation Act and 34 CFR 361.22(b) because its current agreement with the Nebraska Department of Education (NDE), dated March 3, 2010, does not include the minimum requirements of a formal interagency agreement. At a minimum, the SEA agreement must provide for:

- (1) Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
- (2) Transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their IEPs under section 614(d) of the Individuals with Disabilities Education Act;
- (3) The roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for services; and

(4) Procedures for outreach to and identification of students with disabilities who are in need of transition services. Outreach to these students should occur as early as possible during the transition planning and must include, at a minimum, a description of the purpose of the vocational rehabilitation program, eligibility requirements, application procedures, and the scope of services that may be provided to eligible individuals.

First, the current agreement does not delineate the responsibilities of NVR to provide consultation and technical assistance to assist educational agencies in planning for the transition of youth from school to post-school activities, including VR, as required by Section 101(a)(11)(D)(i) and 34 CFR 361.22(b)(1). Although the agreement implies the commitment of NDE to develop a consultative and technical assistance role for VR, the specific responsibilities are not delineated.

Second, the SEA between NVR and NDE does not provide for the responsibilities of each party with respect to the provision of transition planning to facilitate the development of the IEP in accordance with Section 101(a)(11)(d)(i) and 34 CFR 361.22(b)(2).

Third, the SEA does not include the financial responsibilities of each agency related to the provision of services, including provisions for determining state lead agencies and qualified personnel responsible for transition services, as required by Section 101(a)(11)(D)(iii) and 34 CFR 361.22(b)(3). The agreement contains a position description for the transition program director. However, this information is not sufficient to address the required components at 34 CFR 361.22(b)(3).

Finally, the SEA agreement does not include procedures for the outreach to, and identification of, students with disabilities in need of transition services pursuant to Section 101(a)(11)(D)(iv) and 34 CFR 361.22(b)(4). It also does not include a description of the purpose of the VR program, application procedures, eligibility requirements, or the scope of services that can be provided to eligible individuals.

### **Corrective Action 3:** NVR must:

- 3.1 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will ensure that the SEA agreement with NDE is updated and revised to comply with the requirements at Section 101(a)(11)(D) of the Rehabilitation Act and 34 CFR 361.22(b); and
- 3.2 submit the revised interagency agreement with NDE for RSA's review as part of NVR's corrective actions associated with the FY 2012 Section 107 monitoring review.

### 4. Unallowable Sources of Match: Indirect Costs

### **Legal Requirements:**

• VR Program Regulations – 34 CFR 361.60

- EDGAR Regulations 34 CFR 80.24
- Federal Cost Principles 2 CFR 225, Appendix A, Paragraphs C.3.b and F.1, and Appendix E, Paragraph B.4

#### **Finding:**

NVR is not in compliance with VR regulations at 34 CFR 361.60 and 34 CFR 80.24, and federal cost principles at 2 CFR 225, because it has utilized non-federal indirect costs allocable to the IL Part B program as match for the VR program.

The Nebraska Department of Administrative Services prepares an annual indirect cost proposal (IDCP) that includes the amount of non-federal funds paid on NVR's behalf through the Nebraska state-wide cost allocation plan (SWCAP). Once approved, the IDCP yields a predetermined indirect cost rate (IDCR). The non-federal share of indirect costs generated from the IDCR are not collected from NVR by the State of Nebraska, and the agency reports these costs as non-federal share to match the VR program on the SF-269 and SF-425 reports. A review of the approved IDCP, and discussions with agency staff on-site, determined that the indirect costs charged to NVR represent the entire DSU and all of the programs NVR administers, including VR and IL Part B. Further review of the SF-269 reports from FYs 2008 and 2009, and the SF-425 reports from FYs 2010 and 2011, revealed that the agency has not reported any indirect costs to the IL Part B program for those four years. NVR subgrants its IL Part B funds to the Panhandle Center for Independent Living to provide services, and the agency indicates that due to the subgranting of funds for direct services, which are considered "Aid" expenses and are excluded from indirect cost charges, there are no indirect costs associated with the IL Part B award; however, as the administrator of the IL Part B program, NVR benefits from indirect costs included in the SWCAP and indirect cost charges that are paid on behalf of the IL Part B program, as well as administrative functions that include preparing and submitting the SF-269 and SF-425 reports associated with the award. As a result, NVR has not ensured an equitable distribution of indirect costs among all federal programs.

VR regulations at 34 CFR 80.24 indicate that a matching or cost sharing requirement may be satisfied by either or both of the following allowable costs incurred by the grantee. The federal cost principles make it clear that a cost is allowable if it is allocable to the federal award (2 CFR 225, Appendix A, paragraph C.1.b). IL Part B costs are not allocable to the VR program. Therefore, they are not allowable as match for the VR program. As a result, NVR's use of SWCAP and indirect costs allocable to the IL Part B program as non-federal share to meet the VR program match requirement is not in compliance with VR regulations at 34 CFR 361.60 and 34 CFR 80.24, and federal cost principles at 2 CFR 225.

#### **Corrective Action 4:** NVR must:

4.1 cease using non-federal indirect costs allocable to the IL Part B programs as match for the VR program;

- 4.2 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will ensure that all non-federal funds used as match for the VR program are allocable to the VR program, pursuant to 34 CFR 361.60, and 34 CFR 80.24; and
- 4.3 ensure that the indirect cost proposal includes the proper allocation of all indirect costs to the benefitting programs, pursuant to federal cost principles in 2 CFR 225.

### 5. Supported Employment Contract Monitoring

### **Legal Requirements:**

- VR Program Regulations 34 CFR 361.12
- EDGAR Regulations 34 CFR 80.20(a) and 34 CFR 80.40(a)

#### **Finding:**

NVR is not in compliance with 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.40(a), because it does not monitor its supported employment (SE) contracts in a manner that ensures expenditures made under the contracts are in compliance with the Rehabilitation Act, its implementing regulations and all other pertinent federal requirements.

Departmental regulations at 34 CFR 80.40(a) state, "[g]rantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity." Pursuant to this requirement, as the recipient of federal funds, NVR is required to monitor and manage the operations of all VR program grant-supported activities, including the SE contracts described below. In addition, federal regulations require NVR to assure in its State Plan that it will implement policies and procedures for the efficient and effective administration of the VR program to ensure that all functions are carried out properly and financial accounting is accurate (34 CFR 361.12). NVR also is required to implement fiscal controls to ensure that VR funds are expended and accounted for accurately and that expenditures are traceable to a level sufficient to determine that such expenditures were made in accordance with applicable federal requirements (34 CFR 80.20(a)).

NVR has entered into SE contracts with community rehabilitation providers (CRPs) for the provision of SE services to individuals with acquired brain injuries and serious and persistent mental illness. RSA reviewed three SE contracts that NVR entered into with Goodwill Industries of Greater NE, Inc. (hereafter referred to as Goodwill) for the period of October 1, 2010 through September 30, 2010, and Community Alliance Rehabilitation Services (hereafter referred to as Community Alliance) and Liberty Centre Services, Inc. (hereafter referred to as Liberty Centre) covering the period of July 1, 2010 through September 30, 2011. The contracts separately include language that NVR agrees to pay Goodwill up to \$130,000, Community Alliance up to \$490,000, and Liberty Centre up to \$90,000 for a maximum of 13, 98, and 18 SE outcomes, respectively.

Services provided under the contracts are identified in the scope of work section and the individual CRP proposals as described below.

- Goodwill indicates in the scope of work that SE services will be provided to assist individuals with acquired brain injuries to secure and retain competitive work, and other follow up services necessary to maintain employment described in the attached proposal. A review of the proposal identifies that Goodwill will provide best practice SE services; develop a community specific employer database; conduct weekly job development meetings to share leads, develop a plan of action, and match employer needs with job seeker strengths; conduct work place analysis to improve job matching and identification of possible job adaptations and supports; and develop essential supports including natural supports.
- Community Alliance indicates in the scope of work section it will provide SE services, independent living training, personal management, disability awareness, and other follow up services to maintain employment. A review of the proposal indicates individuals to be served will have serious mental illness, and that services will include job placement and job retention services, including the identification of placements, potentially assisting with application completion and accompanying the individual to interviews, conducting job analyses and utilizing job coaching.
- Liberty Centre, similarly to Community Alliance, indicates in the scope of work section it will provide SE services, independent living training, personal management, disability awareness, and other follow up services to maintain employment. However, the proposal indicates that Liberty Centre will provide job skills training, monitoring at the work site, social skills training, ongoing observation and supervision, job placement stabilization, facilitation of supports and other services.

NVR's payment process for the SE contracts is conducted the manner described below.

- According to the funding section under the Terms and Conditions, "Upon receipt of the Request for Estimated Requirement of Funds form, funds will be distributed as follows: Sixty percent of the Contract amount...will be distributed in quarterly installments at the beginning of each quarter..." The contracts do not require that the contractors submit to NVR any supporting documentation at this time.
- The remaining 40 percent of the contract amount is disbursed to the CRPs quarterly upon NVR's receipt of quarterly invoices accompanied by supporting documentation in the form of a performance report spreadsheet. The data included on the standard performance report document includes the name, identifier, referral date, employment start date, employer name, number of hours per week the individual is working, earnings per hour, and outcome date.

Discussions with NVR executive staff revealed that the agency does not conduct monitoring of the SE contracts, including the review of supporting documentation, to ensure that activities and services provided under the contracts are in compliance with applicable federal requirements.

NVR did indicate that local office directors may address specific concerns related to contract development with local CRPs. However, these activities do not rise to the level of contract monitoring that ensure the activities and services provided under the contracts meet the specifications contained in the scope of work or to ensure that they comply with applicable federal requirements pursuant to 34 CFR 80.40(a).

#### **Corrective Action 5:** NVR must:

- 5.1 submit an assurance within 10 days of the final monitoring report that it will comply with the requirements at 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.40(a), by monitoring all grant-supported activities, including the SE contracts, to ensure compliance with federal requirements; and
- 5.2 develop written procedures for the monitoring of all grant supported activities, including the SE contracts, to ensure that all grant-supported activities provided are in compliance with federal requirements, pursuant to 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.40(a).

## 6. Federal Reporting

#### **Legal Requirements:**

- VR Program Regulations 34 CFR 361.12
- EDGAR Regulations 34 CFR 80.20(a)

## **Finding:**

NVR is not in compliance with 34 CFR 361.12 and 34 CFR 80.20(a)(1) because NVR did not accurately report financial data on FY 2010 and 2011 SF-425 federal financial reports.

For the FY 2010 VR award (H126A100039), NVR reported data errors on the 9/30/10 VR SF-425 report impacting the non-federal share of expenditures and unliquidated obligations.

- "Recipient share of expenditures" (line 10j) were below the required levels to match the federal award, including federal expenditures, federal unliquidated obligations, and the carryover amount.
- Further review of the agency's SF-425 supporting documentation, and discussions with NVR staff, revealed that the "Recipient share of unliquidated obligations" (line 12d) were not included in the "Recipient share of expenditures" (line 10j) per the SF-425 instructions in RSA-PD-12-06. This error resulted in inaccurate non-federal share reported as match for the FY 2010 award, and an inaccurate SF-425 report.

For the FY 2011 VR award (H126A110039), NVR did not report any financial data on the 9/30/11 VR SF-425 report for data elements in the Remarks Section. Discussions with agency staff identified expenditures made from these categories that were not reported on the SF-425 report.

- "Innovation and Expansion Amount for BASIC" (line 12a) reflected \$0.
- "In Service Training for BASIC" (line 12c) reflected \$0.
- "Program income transferred" (line 12e) reflected \$0.

Data errors impacting the non-federal share of expenditures and unliquidated obligations were also reported.

- "Recipient share of unliquidated obligations" (line 12d) reflected \$0.
- The "Recipient share of expenditures" (line 10j) were below the required levels to match the federal award, including federal expenditures, federal unliquidated obligations, and the carryover amount. Discussions with NVR staff revealed there were "Recipient share of unliquidated obligations" that went unreported that were also not included in the "Recipient share of expenditures" (line 10j) per the SF-425 instructions in RSA-PD-12-06, resulting in a reduced non-federal share. These errors resulted in inaccuracies in the SF-425 report regarding financial data under the "Remarks" data elements that impacted the non-federal share reported as match for the FY 2011 award.

During the on-site visit, discussions with NVR staff indicated that substantive checks and balances are not in place to ensure the accuracy of the financial data, and the report is not reviewed in its entirety for accuracy prior to submission.

Federal regulations require that all recipients of federal funds must accurately report the financial results of all federally-assisted activities (34 CFR 361.12 and 34 CFR 80.20(a)). NVR, as a recipient of federal Title I VR funds, must comply with the requirements of 34 CFR Part 80. NVR's inaccurate reporting "Innovation and Expansion Amount for BASIC" (line 12a), "In Service Training for BASIC" (line 12c), "Recipient share of unliquidated obligations" (line 12d), "Program income transferred" (line 12e), and Recipient share of expenditures" (line 10j) on the results in inaccurate FY 2010 and FY 2011 SF-425 reports. RSA utilizes financial reports, such as the SF-425, as the basis for establishing national data trends and norms from which to compare agencies. Therefore, NVR's inaccurate reporting impacts RSA's ability to develop accurate databases from which to conduct program analyses and develop reports, as required by sections 12 and 13 of the Rehabilitation Act. By submitting inaccurate reports, NVR is not in compliance with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a).

#### **Corrective Action 6:** NVR must:

- 6.1 cease submitting inaccurate SF-425 reports;
- 6.2 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will submit complete and accurate SF-425 reports to RSA; and
- 6.3 develop procedures to ensure the accurate and timely submission of federal financial reports to RSA.

## 7. Assigning Personnel Costs – VR Program

### **Legal Requirements:**

- VR Program Regulations 34 CFR 361.3 and 34 CFR 361.12
- EDGAR Regulations 34 CFR 80.20(a)
- Federal Cost Principles 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5

## **Finding:**

NVR is not in compliance with federal regulations at 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a) that require VR funds to be used solely for the provision of VR services or for the administration of the VR program, that State agencies are responsible for financial accountability, and that procedures must be in place to ensure expenditures are traceable and compliant with federal statutes. Additionally, NVR has not complied with 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5 that require employees working on multiple cost objectives to maintain personnel activity reports or equivalent documentation that allocate costs to the benefitting cost objective, and reflect an after-the-fact distribution of the actual activity of each employee.

To constitute an administrative cost under the VR program, expenditures must be incurred in the performance of administrative functions of the VR program (34 CFR 361.5(b)(2)). Administrative salaries, including those for clerical and other support staff who work under the VR program, constitute a VR-related administrative cost (34 CFR 361.5(b)(2)(xi)). Non-VR-related personnel costs do not constitute VR administrative costs because they do not arise from the performance of administrative functions for the VR program. Therefore, non-VR-related expenditures are not allowable under the VR program, pursuant to 34 CFR 361.3, and may not be paid for with VR funds.

NVR executive management staff that spend time on multiple programs, including the VR Director, Program Directors, Program Specialists, and VR Senior Associates do not track their time in accordance with time spent on the VR, IL Part B, Transition, YRTC, and other non-federal programs, but charge their time 100 percent to the VR program. While the portion of their time working on non-VR activities is not charged directly, these salaries are also not charged as indirect costs to account for the time spent on the programs the agency administers.

Staff working in NVR work on multiple cost objectives including the VR, IL Part B, Transition, YRTC, and other programs. Staff working on multiple cost objectives must charge their time to the appropriate cost objective based upon the proportionate benefit received, and must utilize personnel activity reports as required in 2 CFR 225, Appendix B, Paragraphs 8.h.4 and 8.h.5. The practice of assigning personnel costs to the VR program that are allocable to other programs is not in accordance with the federal cost principles outlined in 2 CFR 225, VR implementing regulations at 34 CFR 361.3 and 34 CFR 361.12, and EDGAR 34 CFR 80.20(a).

#### **Corrective Action 7:** NVR must:

- 7.1 cease using Title I funds for personnel costs that are incurred in the administration of other programs, such as the IL Part B, Transition, YRTC, and non-federal programs;
- 7.2 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will comply with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, Paragraphs 8.h.4 and 8.h.5; and
- 7.3 submit a plan, including timelines, describing the corrective actions that will be taken, as required by 2 CFR 225, Appendix B, Paragraphs 8.h.4 and 8.h.5, to ensure:
  - a. personnel activity reports are maintained to support the allocation of an equitable portion of personnel costs for individuals, not charged indirectly, who work on more than one federal grant program or cost objective; and
  - b. personnel and administrative costs are allocated equitably, either directly or indirectly, to each program administered by NVR pursuant to Federal program requirements.

#### 8. Program Income

## **Legal Requirement:**

• EDGAR Regulations - 34 CFR 80.21(f)

#### **Finding:**

NVR is not in compliance with federal regulations at 34 CFR 80.21(f)(2) because it has not disbursed available program income prior to drawing down additional federal VR funds.

NVR's Social Security reimbursement VR program income is received through a state treasury account from which funds are accessed. NVR receives notification from the state treasury office that the program income has been received. The Nebraska State Accounting office, which executes the drawing down of federal funds, is also responsible for the payment of expenditures. NVR notifies state accounting when expenditures are to be paid and from which program, including VR, IL Part B, and program income funds. The Social Security reimbursement program income is spent on the VR program, as well as transferred to the IL Part B program per 34 CFR 361.63(c)(2). Discussions with NVR staff members onsite, and a review of SF-269 and SF-425 data, revealed that during FYs 2007 through 2010 program income accumulated and was not disbursed prior to requesting additional cash draws from the federal VR award.

Regulations at 34 CFR 80.21(f)(2) require grantees to disburse program income prior to requesting additional cash payments. This means that NVR must disburse all program income prior to requesting a drawdown of additional VR funds from its federal award. Disbursement of program income may include the transfer of VR social security reimbursement program income to the IL Part B program. Since program income has previously accumulated during the fiscal year, NVR was unable to ensure that program income earned during FYs 2007 through 2010 was disbursed prior to requesting additional cash payments, pursuant to 34 CFR 80.21(f)(2).

In FY 2011 NVR adjusted the way program income was disbursed, and is now compliant with 34 CFR 80.21(f)(2). While the program income remains in one fund, in FY 2011 NVR adjusted the methodology through which expenses are coded (using business units), permitting the tracing of program income funds to the individual program.

**Corrective Action 8:** NVR must submit a written assurance to RSA within 10 days of the issuance of the final monitoring report to ensure that it will continue to disburse program income before requesting additional cash payments, pursuant to 34 CFR 80.21(f)(2).

# **APPENDIX A: AGENCY RESPONSE**

## **Section 4: Results of Prior Monitoring Activities**

NVR does not request any technical assistance from the goals identified in the FY 2007 monitoring report.

## **Section 5: Focus Areas**

## **5.B.1 NVR Service Delivery to Transition Population**

5.B.1.1 continue to build on the transition to independence model to be applied to transition students as VR consumers in order to work toward and achieve goals in the area of employment;

**Agency Response:** NVR will continue to transition to the independence model as VR consumers work to achieve goals in the area of employment. NVR has hired an Outreach and Marketing Specialist and will work with this person to develop a strategic plan to help with outreach. NVR will continue to support the YRTC Transition Liaison, Youth Leadership Council, and to further incorporate marketing of NVR through these initiatives. NVR will continue to provide grant funding to ATP to sponsor three statewide, youth-led conferences.

5.B.1.2 develop and implement strategies to provide education and training to the SEA as well as local school districts about what constitutes an appropriate referral to the VR program;

**Agency Response:** NVR will provide information about appropriate referrals and changes in VR policy by informing and providing materials to State Transition Advisory Committee, and Transition Practitioners Group. NVR will continue to develop a strong working relationship with the Nebraska Department of Education – Office of Special Education Liaison. NVR will make changes and improve the statewide transition website. NVR will also share the same information at the Transition Summer Institute and the Transition Summit.

5.B.1.3 reassess the caseload management within the 14 teams throughout the state to ensure equitable distribution of workload among caseload carrying staff in the new transition service delivery model; and

**Agency Response:** NVR expects caseload size to decrease in the 14 teams throughout the state by making the change to requiring that all VR "transition" cases have a completed application and go through the eligibility process. NVR expects caseloads that involve transition age students to drop by 50 percent with each case having more focus on the VR process. NVR expects the 50 percent decrease in caseload size because approximately 40 percent of transitionage youth had moved into VR's adult program from the current transition program in the past.

5.B.1.4 continue to examine the utility of the transition IPE workbook with key stakeholders in order to ensure a more flexible method of administration that becomes a useful source of information for both NVR consumers and staff.

Agency Response: NVR recognizes that the IPE workbook contains many valuable tools that are useful to staff and consumers in the collection of information, exploration and development of goals, identification of resources, and completion of the plan for employment. Information from staff, consumers and especially from the SRC's Consumer Input Committee has led to a decision to "deconstruct" the workbook. The tools will be built into the VR process in the appropriate places as the decision points/checklists for the VR processes are completed (anticipated to be completed this fall). At that point, consumers will be able to complete the tools appropriate to their unique individual needs in an electronic format. Consumers will be able to print out the combination of these tools as their individualized IPE workbook if they so choose. The electronic format is expected to allow for all IPE workbook information to automatically be entered into the case management system (QE2) to facilitate access to all members of the VR team. The inherent flexibility of this approach will make the "workbook" a more useful source of information for consumers and staff.

**Technical Assistance:** NVR does not request technical assistance.

## **5.C.1 NVR Monitoring**

**Recommendation 5.C.1:** RSA recommends that NVR:

5.C.1.1 review all monitoring activities in which NVR staff participate to identify efficient and effective monitoring practices; and

**Agency Response:** NVR has reviewed its monitoring activities to ensure efficient and effective monitoring practices, and plan to do this on an annual basis. Last year's review resulted in the inclusion of performance criteria as an additional monitoring tool for this year's agreements.

5.C.1.2 develop policies and procedures operationalizing the identified monitoring practices to ensure consistent implementation and training for staff.

**Agency Response:** NVR will document the current policy of monitoring that is occurring in the field offices by office directors, and include a plan for implementing and training any new staff.

**Technical Assistance:** NVR does not request technical assistance.

## **5.C.2 ATP Contract**

Recommendation 5.C.2: RSA recommends that NVR:

- 5.C.2.1 review and update the ATP proposal language to identify the current needs of the program, define the services to be provided, and incorporate them into the MOU;
- 5.C.2.2 incorporate the policies and procedures from the ATP/VR Partnership policy into the MOU; and
- 5.C.2.3 update the MOU based upon review of the ATP proposal and ATP/VR Partnership policy, and include language associated with ATP personnel cost tracking and procedures for monitoring the ATP program.

**Agency Response:** NVR will update the memorandum of understanding (MOU) with the Assistive Technology Partnership (ATP) as soon as possible but no later than October 1, 2012. The recommendation has been shared with the ATP Director and they are currently updating the ATP proposal language. The MOU will include the AT services to be provided, the service delivery process, and roles and responsibilities of the ATP and VR staff. The MOU will also include the process for tracking personnel cost and procedures for monitoring the ATP program.

**Technical Assistance:** NVR does not request technical assistance.

## **Section 6: Compliance Findings and Corrective Actions**

1. Unallowable Service Provision through the NVR "Transition Program"

**Corrective Action:** NVR must:

- 1.1 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will:
  - a) require the submission of an application at the time the Transition and Services Consent and Information Release form is signed by the transition student and parent, in order to comply with 34 CFR 361.41(2);

**Agency Response:** NVR will submit written assurance to RSA within 10 days after the final monitoring report is issued that NVR will require the submission of an application form signed by the student and parent, in order to comply with 34 CFR361.41(2). It is the intent of NVR to discontinue the use of the Transition Services Consent and Information Release form.

b) determine eligibility within 60 days once a transition student has submitted an application for VR services, in order to comply with Section 102(a)(6) of the Rehabilitation Act and 34 CFR 361.41(b)(1); and

**Agency Response:** NVR will submit written assurance to RSA within 10 days after the final monitoring report is issued that NVR will determine eligibility within 60 days once a transition student has submitted an application for VR services, in order to comply with Section 102(a)(6) of the Rehabilitation Act and 34 CFR 361.41(b)(1).

c) develop an IPE for a transition student upon the determination of eligibility and only provide VR services to program applicants or individuals determined eligible to receive such services under an approved IPE, in order to comply with Sections 102(b)(3) and 103(a) of the Rehabilitation Act and 34 CFR 361.46(a) and 34 CFR 361.48;

**Agency Response:** NVR will submit written assurance to RSA within 10 days after the final monitoring report is issued that NVR will develop an IPE for a transition student upon the determination of eligibility and only provide VR services to program applicants or individuals determined eligible to receive such services under an approved IPE, in order to comply with Sections 102(b)(3) and 103 (a) of the Rehabilitation Act and 34 CFR 361.46(a) and 34 CFR 361.48.

1.2 amend the transition chapter of the NVR policy manual to reflect the assurance above;

**Agency Response:** NVR will submit written assurance to RSA within 10 days after the final monitoring report is issued that NVR will amend the transition chapter of the NVR policy manual to reflect all changes required to comply with the corrective action. The agency is contemplating whether it is necessary to retain a separate transition chapter and may decide to integrate the transition service component into the employment program policies and procedures in the NVR policy manual.

1.3 submit to RSA a copy of the revised transition chapter of the NVR policy manual; and

**Agency Response:** NVR will submit written assurance to RSA within 10 days after the final monitoring report is issued that NVR will submit to RSA a copy of the revised transition chapter of the NVR policy manual. NVR has already initiated a review of the current chapter and identified required changes. The agency is contemplating whether it is necessary to retain a separate transition chapter and may decide to integrate the transition service component into the employment program policies and procedures in the NVR policy manual.

1.4 provide training to NVR staff on revised agency policies and procedures related to application, eligibility determination, and IPE development for transition-age youth.

**Agency Response:** NVR will submit written assurance to RSA within 10 days after the final monitoring report is issued that NVR will provide training to NVR staff on the revised agency policies and procedures related to application, eligibility determination, and IPE development for transition-age youth.

**Technical Assistance:** NVR does not request technical assistance.

2. Untimely Development of IPEs for Transition-Age Youth

**Corrective Action:** NVR must:

2.1 submit a written assurance to RSA within 10 days after the final monitoring report is issued that IPEs for eligible transition-age youth will be developed and approved prior to their exit from the school setting, in accordance with 34 CFR 361.22(a)(2);

**Agency Response:** NVR will submit a written assurance to RSA within 10 days after the final monitoring report is issued that IPE's for eligible transition-age youth will be developed and approved prior to their exit from the school setting, in accordance with 34 CFR 361.22(a)(2).

2.2 revise its written policies to be consistent with 34 CFR 361.22(a)(2) by requiring that IPEs for eligible transition-age youth be developed and approved prior to their exit from the school setting; and

**Agency Response:** NVR has already started working to identify what policy will need to change to reflect that IPE's for transition-age youth will be developed and approved prior to their exit from the school setting. NVR expects the changes to be completed and incorporated during the summer and before the 2012-2013 school year.

2.3 provide training on the federal requirements and the revised policy to all counselors and other staff involved in the provision of VR services to transition-age youth.

**Agency Response:** NVR will provide training to all counselors and other staff involved in the provision of VR services to transition-age youth on the revised policy and federal requirements during the summer of 2012 and before the 2012-2013 school year.

Technical Assistance: NVR requests technical assistance.

NVR requests technical assistance on the possibility of developing a separate standard for the time between establishment of eligibility and the development of the IPE for transition-age youth. The current standard for non transition-age consumers is 90 days from eligibility. 34 CFR 361.22(a)(2) requires the development of an IPE prior to the exit from a school setting. Could this simply be the standard for transition-age youth while having a different standard for non transition-age consumers?

NVR also requests technical assistance on what the options are when the counselor and transition-age youth cannot agree on an appropriate plan for employment prior to their exit from a school setting.

**RSA Response:** While the pertinent statutory and regulatory provisions do not prohibit the establishment of separate timelines for different groups of individuals, RSA emphasizes that in accordance with the regulation and interpretative guidance, the timelines included in an agency's written policy are to be flexible and take into consideration the needs of each individual (66 Fed. Reg. 4380, 4429). Since NVR has established a 90-day timeline policy from eligibility to IPE development, we encourage this to be the standard for all VR consumers. As applied to

transition population, NVR would adhere to its 90-day timeline from eligibility to IPE and take into consideration the unique needs of transition population on a case-by-case basis with IPEs developed no later than the student exiting the school system. In taking an individualized approach, NVR can extend the timeline of the needs of each student and use the process for amending IPEs as the employment goals and service needs change over time.

### 3. Interagency Agreement with the State Educational Agency

#### **Corrective Action:** NVR must:

3.1 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will ensure that the SEA agreement with NDE is updated and revised to comply with the requirements at Section 101(a)(11)(D) of the Rehabilitation Act and 34 CFR 361.22(b); and

**Agency Response:** NVR will submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will update and revise the SEA agreement to comply with the requirements of Section 101(a)(11)(D) of the Rehabilitation Act and 34 CFR 361.22.

3.2 submit the revised interagency agreement with NDE for RSA's review as part of NVR's corrective actions associated with the FY 2012 Section 107 monitoring review.

**Agency Response:** NVR has already completed a draft of the revised interagency agreement with NDE based on technical assistance and documents provided by RSA and Ohio Department of Rehabilitation Services. The final SEA agreement will be submitted for RSA's review as part of NVR's corrective actions associated with the FY2012 Section 107 monitoring review.

**Technical Assistance:** NVR does not request technical assistance.

## 4. Unallowable Sources of Match: Indirect Costs

## **Corrective Action 4:** NVR must:

4.1 cease using non-federal indirect costs allocable to the IL Part B programs as match for the VR program;

**Agency Response:** NVR assures that they will cease using non-federal indirect costs allocable to the IL Part B programs as match for the VR program

4.2 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will ensure that all non-federal funds used as match for the VR program are allocable to the VR program, pursuant to 34 CFR 361.60, and 34 CFR 80.24; and

**Agency Response:** NVR will submit a written assurance to RSA within 10 days after the final monitoring report is issued ensuring that all non-federal funds used as match for the VR program are allocable to the VR program, pursuant to 34 CFR 361.60, and 34 CFR 80.24; and

4.3 ensure that the indirect cost proposal includes the proper allocation of all indirect costs to the benefitting programs, pursuant to federal cost principles in 2 CFR 225.

**Agency Response:** NVR will work with NDE to ensure that the indirect cost proposal includes the proper allocation of all indirect costs to the benefitting programs, pursuant to federal cost principles in 2 CFR 225.

**Technical Assistance:** NVR does not request technical assistance.

### 5. Supported Employment Contract Monitoring

**Corrective Action 5:** NVR must:

5.1 submit an assurance within 10 days of the final monitoring report that it will comply with the requirements at 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.40(a), by monitoring all grant-supported activities, including the SE contracts, to ensure compliance with federal requirements; and

**Agency Response:** NVR will submit a written assurance to RSA within 10 days after the monitoring report is issued that it will comply with 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.40(a).

5.2 develop written procedures for the monitoring of all grant supported activities, including the SE contracts, to ensure that all grant-supported activities provided are in compliance with federal requirements, pursuant to 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.40(a).

**Agency Response:** NVR will develop written procedures for the monitoring of all grant supported activities, including the SE contracts, to ensure that all grant-supported activities provided are in compliance with federal requirements, pursuant to 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.40(a).

**Technical Assistance:** NVR requests technical assistance.

### 6. Federal Reporting

**Corrective Action 6:** NVR must:

6.1 cease submitting inaccurate SF-425 reports;

**Agency Response:** NVR assures that they will cease submitting inaccurate SF-425 reports.

6.2 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will submit complete and accurate SF-425 reports to RSA; and

**Agency Response:** NVR will submit a written assurance to RSA within 10 days after the final monitoring report is issued that complete and accurate SF-425 reports will be submitted to RSA.

6.3 develop procedures to ensure the accurate and timely submission of federal financial reports to RSA.

**Agency Response:** NVR will develop a process for ensuring accurate and timely submission of federal financial reports to RSA, to include training and review of the instructions outlined in the policy directive. NVR fiscal staff are currently working with the RSA fiscal liaison to revise past inaccuracies and submit corrected SF-425 reports for FY2009, 2010, and 2011.

**Technical Assistance:** NVR does not request technical assistance.

## 7. Assigning Personnel Costs

Corrective Action 7: NVR must:

7.1 cease using Title I funds for personnel costs that are incurred in the administration of other programs, such as the IL Part B, Transition, YRTC, and non-federal programs;

**Agency Response:** NVR assures it will cease using Title I funds for personnel costs that are incurred in the administration of other programs, such as the IL Part B, Transition, YRTC, and non-federal programs;

7.2 submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will comply with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, Paragraphs 8.h.4 and 8.h.5; and

**Agency Response:** NVR will submit a written assurance to RSA within 10 days after the final monitoring report is issued that NVR will comply with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, Paragraphs 8.h.4 and 8.h.5; and

- 7.3 submit a plan, including timelines, describing the corrective actions that will be taken, as required by 2 CFR 225, Appendix B, Paragraphs 8.h.4 and 8.h.5, to ensure:
  - c. personnel activity reports are maintained to support the allocation of an equitable portion of personnel costs for individuals, not charged indirectly, who work on more than one federal grant program or cost objective; and

d. personnel and administrative costs are allocated equitably, either directly or indirectly, to each program administered by NVR pursuant to Federal program requirements.

**Agency Response:** Corrective Action 7.3: NVR will submit a plan including timelines and corrective actions to be taken as required by 2 CFR 225, Appendix B, Paragraphs 8.h.4 and 8.h.5 to ensure that personnel activity reports are maintained to support the allocation of personnel costs for individuals who work on more than one federal grant program or cost objective. In addition, NVR will implement corrective action so that administrative costs are allocated equitably to each program administered by the agency.

**Technical Assistance:** NVR requests technical assistance.

NVR requests technical assistance to help determine whether such costs should be tracked and charged as directs costs to non-Title I grant programs or charged to the indirect costs already paid by these grants to NDE.

## 8. Program Income

**Corrective Action 8:** NVR must submit a written assurance to RSA within 10 days of the issuance of the final monitoring report to ensure that it will continue to disburse program income before requesting additional cash payments, pursuant to 34 CFR 80.21(f)(2).

**Agency Response:** NVR will submit written assurance to RSA within 10 days of the issuance of the final monitoring report that NVR will continue to disburse program income before requesting additional cash payments, pursuant to 34 CFR 80.21(f)(2).

**Technical Assistance:** NVR does not request technical assistance.

## **APPENDIX B: LEGAL REQUIREMENTS**

This Appendix contains the full text of each legal requirement cited in Section 6 of this report.

## Rehabilitation Act of 1973, as amended

Section 7(38)

(38) Vocational Rehabilitation Services

The term "vocational rehabilitation services" means those services identified in section 103 which are provided to individuals with disabilities under this Act.

101(a)(11)(D)(i)-(iv)

- (a) Plan Requirements
- (11) Cooperation, collaboration, and coordination
- (D) Coordination with education officials

The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities, that are designed to facilitate the transition of the students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for--

- (i) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
- (ii) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act;
- (iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and
- (iv) procedures for outreach to and identification of students with disabilities who need the transition services.

102(a)(6) and 102(b)(3)

(a) Eligibility

\*\*\*\*

(6) Timeframe for making an eligibility determination

The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

- (A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or
- (B) the designated State unit is exploring an individual's abilities, capabilities, and capacity to perform work situations under paragraph 2(B).
- (3) Mandatory components of an individualized plan for employment Regardless of the approach selected by an eligible individual to develop an individualized plan for employment, an individualized plan for employment shall, at a minimum, contain mandatory components consisting of--
  - (A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;
  - (B)(i) a description of the specific vocational rehabilitation services that are--
    - (I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and
    - (II) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and
    - (ii) timelines for the achievement of the employment outcome and for the initiation of the services;
  - (C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;
  - (D) a description of criteria to evaluate progress toward achievement of the employment outcome;
  - (E) the terms and conditions of the individualized plan for employment, including, as appropriate, information describing--
    - (i) the responsibilities of the designated State unit;
    - (ii) the responsibilities of the eligible individual, including--
      - (I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;
      - (II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and
      - (III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 101(a)(8); and
    - (iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 101(a)(8);
  - (F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying--

- (i) the extended services needed by the eligible individual; and
- (ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized plan for employment, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and
- (G) as determined to be necessary, a statement of projected need for post-employment services.

### Section 103(a)

#### (a) Vocational Rehabilitation Services for Individuals

Vocational rehabilitation services provided under this title are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including--

- (1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;
- (2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);
- (3) referral and other services to secure needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this title;
- (4) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
- (5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;
- (6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including--
  - (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;
  - (B) necessary hospitalization in connection with surgery or treatment;
  - (C) prosthetic and orthotic devices;
  - (D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

- (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and
- (F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;
- (7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;
- (8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;
- (9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;
- (10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;
- (11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;
- (12) occupational licenses, tools, equipment, and initial stocks and supplies;
- (13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;
- (14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;
- (15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;
- (16) supported employment services;
- (17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and
- (18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

## Section 111(a)(1)

(a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

## VR Program Regulations

34 CFR 361.3

The Secretary makes payments to a State to assist in-

- (a) The costs of providing vocational rehabilitation services under the State plan; and
- (b) Administrative costs under the State plan.

#### 34 CFR 361.5(b)(58)

- (b) Other definitions. The following definitions also apply to this part: \*\*\*\*
- (58) Vocational rehabilitation services
  - (i) If provided to an individual, means those services listed in §361.48

#### 34 CFR 361.12

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under [the VR program]. These methods must include procedures to ensure accurate data collection and financial accountability."

### 34 CFR 361.22(a)(2)

- (a) Plans, policies, and procedures.
  - (1) The State Plan must contain plans, policies, and procedures for coordination between the designated Sate agency and education officials responsible for the public education of students with disabilities that are designed to facilitate the transition of students with disabilities that are designed to facilitate the transition of students with disabilities from the receipt of vocational rehabilitation services under the responsibility of the designated State agency.
  - (2) These plans, policies, and procedures in paragraph (a)(1) of this section must provide for the development and approval of an individualized plan for employment in accordance with Section 361.45 as early as possible during the transition planning process but, at the latest, by the time each student determined to be eligible for vocational rehabilitation services leaves the school setting or, if the designated State unit is operating under an order of selection, before each eligible student able to be served under the order leaves the school setting.

#### 34 CFR 361.22(b)(1)-(4)

- (b) Formal interagency agreement. The State plan must include information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—
  - (1) Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
  - (2) Transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and

- completion of their individualized education programs (IEPs) under section 614(d) of the Individuals with Disabilities Education Act;
- (3) The roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and
- (4) Procedures for outreach to and identification of students with disabilities who are in need of transition services. Outreach to these students should occur as early as possible during the transition planning process and must include, at a minimum, a description of the purpose of the vocational rehabilitation program, eligibility requirements, application procedures, and scope of services that may be provided to eligible individuals.

## 34 CFR 361.41(b)(1) and 34 CFR 361.41(b)(2)

- (b) Applications.
- (1) Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in One-Stop centers established under section 121 of the Workforce Investment Act of 1998, an eligibility determination must be made within 60 days, unless-
  - (i) Exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or
  - (ii) An exploration of the individual's abilities, capabilities, and capacity to perform in work situations is carried out in accordance with Section 361.42(e) or, if appropriate, an extended evaluation is carried out in accordance with Section 361.42(f)
- (2) An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate-
  - (i)(A) Has completed and signed an agency application form;
  - (B) Has completed a common intake application form in a One-Stop center requesting vocational rehabilitation services; or
  - (C) Has otherwise requested services from the designated State unit;
  - (ii) Has provided to the designated State unit information necessary to initiate an assessment to determine eligibility and priority for services; and
  - (iii) Is available to complete the assessment process.

## 34 CFR 361.46(a)

- (a) Mandatory components. Regardless of the approach in §361.45(c)(1) that an eligible individual selects for purposes of developing the IPE, each IPE must include—
  - (1) A description of the specific employment outcome, as defined in §361.5(b)(16), that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice.

#### 34 CFR 361.48

As appropriate to the vocational rehabilitation needs of each individual and consistent with each individual's informed choice, the designated State unit must ensure that the following vocational rehabilitation services are available to assist the individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice:

- (a) Assessment for determining eligibility and priority for services by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with Sec. 361.42.
- (b) Assessment for determining vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with Sec. 361.45.
- (c) Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising informed choice in accordance with Sec. 361.52.
- (d) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce investment system, in accordance with Sec. Sec. 361.23, 361.24, and 361.37, and to advise those individuals about client assistance programs established under 34 CFR part 370.
- (e) In accordance with the definition in Sec. 361.5(b)(40), physical and mental restoration services, to the extent that financial support is not readily available from a source other than the designated State unit (such as through health insurance or a comparable service or benefit as defined in Sec. 361.5(b)(10)).
- (f) Vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds under this part unless maximum efforts have been made by the State unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training.
- (g) Maintenance, in accordance with the definition of that term in Sec. 361.5(b)(35).
- (h) Transportation in connection with the rendering of any vocational rehabilitation service and in accordance with the definition of that term in Sec. 361.5(b)(57).
- (i) Vocational rehabilitation services to family members, as defined in Sec. 361.5(b)(23), of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome.
- (j) Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services for individuals who are deaf-blind provided by qualified personnel.
- (k) Reader services, rehabilitation teaching services, and orientation and mobility services for individuals who are blind.
- (l) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services.
- (m)Supported employment services in accordance with the definition of that term in Sec. 361.5(b)(54).

- (n) Personal assistance services in accordance with the definition of that term in Sec. 361.5(b)(39).
- (o) Post-employment services in accordance with the definition of that term in Sec. 361.5(b)(42).
- (p) Occupational licenses, tools, equipment, initial stocks, and supplies.
- (q) Rehabilitation technology in accordance with the definition of that term in Sec. 361.5(b)(45), including vehicular modification, telecommunications, sensory, and other technological aids and devices.
- (r) Transition services in accordance with the definition of that term in Sec. 361.5(b)(55).
- (s) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome.
- (t) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

#### 34 CFR 361.60

- (a) Federal share.
  - (1) General. Except as provided in paragraph (a)(2) of this section, the Federal share for expenditures made by the State under the State plan, including expenditures for the provision of vocational rehabilitation services and the administration of the State plan, is 78.7 percent.
  - (2) Construction projects. The Federal share for expenditures made for the construction of a facility for community rehabilitation program purposes may not be more than 50 percent of the total cost of the project.
- (b) Non-Federal share.
  - (1) General. Except as provided in paragraph (b)(2) and (3) of this section, expenditures made under the State plan to meet the non-Federal share under this section must be consistent with the provisions of 34 CFR 80.24.

## **Education Department General Administrative Regulations (EDGAR)**

#### 34 CFR 80.20(a)

- (a) A state must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:
  - (1) Permit preparation of reports required by this part and the statutes authorizing the grant; and
  - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

#### 34 CFR 80.21(f)(2)

- (f) Effect of Program income, refunds, and audit recoveries on payment. (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.
- (2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments for the same activity.

#### 34 CFR 80.24

- (a) Basic rule: Costs and contributions acceptable. With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:
  - (1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

#### 34 CFR 80.40(a)

(a) Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

#### OMB circulars as cited in the CFR

2 CFR 225, Appendix A, Paragraphs C.3.b and F.1

#### 3. Allocable costs

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b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.

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#### F. Indirect Costs

1. General. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. Indirect cost pools

should be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

## 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5

- (4) Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection 8.h.(5) of this appendix unless a statistical sampling system (see subsection 8.h.(6) of this appendix) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on:
  - (a) More than one Federal award,
  - (b) A Federal award and a non-Federal award,
  - (c) An indirect cost activity and a direct cost activity,
  - (d) Two or more indirect activities which are allocated using different allocation bases, or
  - (e) An unallowable activity and a direct or indirect cost activity.
- (5) Personnel activity reports or equivalent documentation must meet the following standards:
  - (a) They must reflect an after-the-fact distribution of the actual activity of each employee,
  - (b) They must account for the total activity for which each employee is compensated,
  - (c) They must be prepared at least monthly and must coincide with one or more pay periods, and
  - (d) They must be signed by the employee.
  - (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:
  - (i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;
  - (ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and
  - (iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

### 2 CFR 225, Appendix E, Paragraph B.4

#### B. Definitions

4. "Base" means the accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to individual Federal awards. The direct cost base selected should result in each award bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs.